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The Administration of the Virginia Alcoholic Beverage Control Board

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The Administration of the Virginia
Alcoholic Beverage Control Board.

by

C. Waldo Johnston

This Thesis is submitted to the Department of Government of the Marshall-Wythe School of Government and Citizenship of the College of William and Mary, in partial fulfillment of the requirements for the degree of Master of Arts.

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Preface.

The twenty-first Amendment to the Constitution turned back to the States the problem of liquor control. This Thesis is a study of how one of these States has met that problem. The writer has undertaken to prove no theories, but his chief aim has been to describe faithfully the organization, the powers and the procedure followed by the Virginia Alcoholic Beverage Control Board in carrying out its double duty of business management and of social control of the liquor habit.

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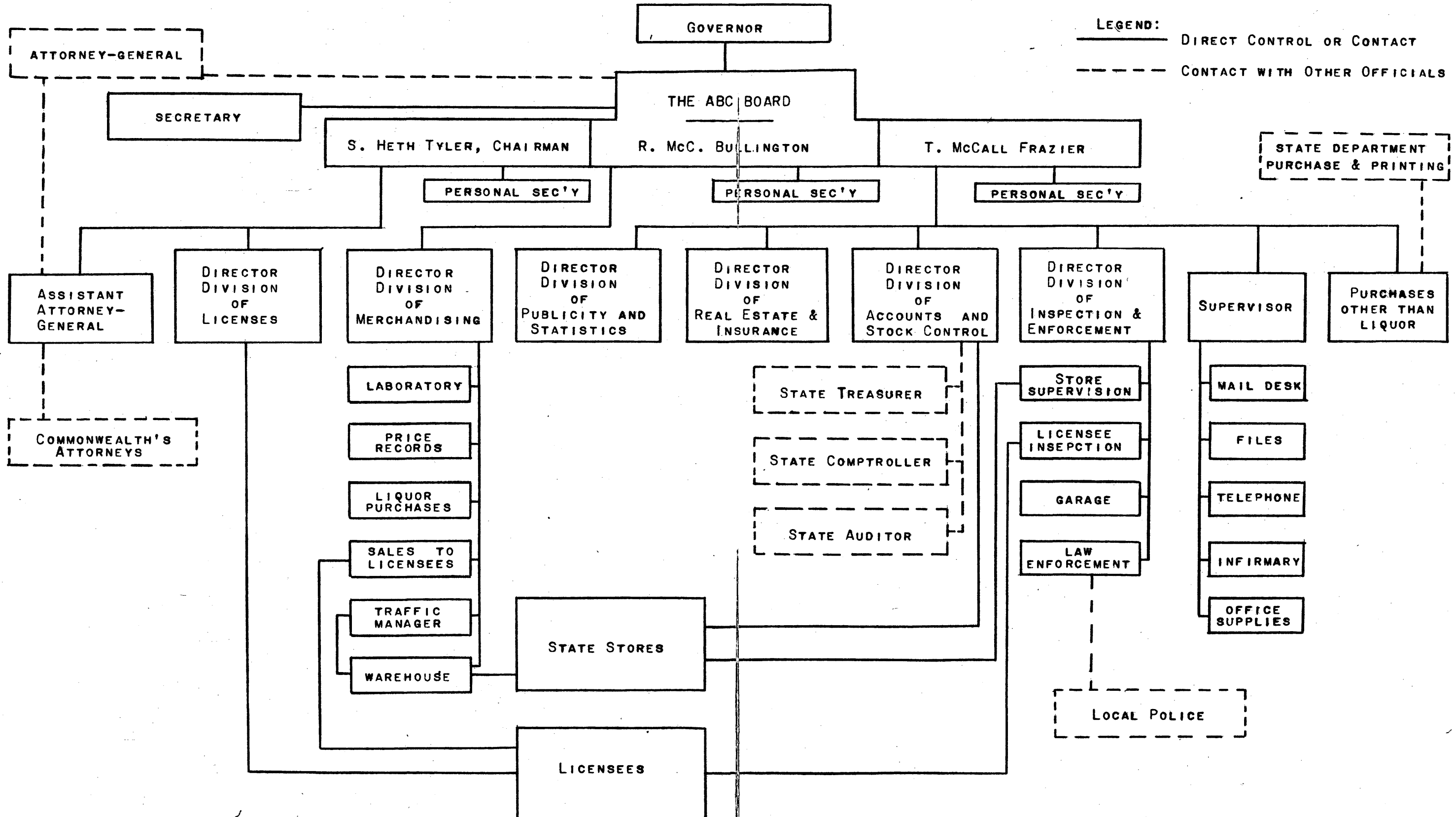
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ORGANIZATION PLAN
VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD



By Courtsey
Va. A.B.C. Board.

CHAPTER ONE

Historical Background

The question of handling alcohol by State control is not a new one for Virginia. Indeed it has been a part of the State's history from her days as a colony to the present time.

Survey of Prohibition in Virginia from Earliest Times

"The early immigrants to Virginia brought with them the drink habit."¹ They came to a new land uninhabited except for the savage and the wild beast. Here they encountered all kinds of hardships which would tend to promote the consumption of alcoholic beverages. This inclination to strong drink was increased by the fact that these early settlers found that brandy and whisky could be made by a combination of fruit and grain. Added to these facts was the growing custom of serving drinks to one's callers. All this contributed to promote the use of alcohol so that it is found that as early as 1619 the colony passed a law against drunkenness.² Proof of the fact

1. Standard Encyclopedia of the Alcohol Problem, vol. 6, p. 2768.

2. P.A. Bruce, Institutional History of Virginia in the 17th Century. p. 38.

that drinking was widely prevalent is seen in an act passed by the Colonial Assembly in 1629 providing that the men of the church should not give themselves to excess in drinking.³ Previous to this the colony by proclamation of the governor and council, had received a mandate stating that there would be a maximum selling price on liquor. This proclamation was issued in 1623,⁴ establishing the first system of liquor control in Virginia. Under Governor Berkley it was further enlarged until it became the first licensing system used in Virginia.⁵

In the establishing of such a license system the colony followed the English custom and forbade the retail selling of liquor to be drunk on the premises. In this respect there was no difference in this early prohibition of retail sales for on-premises consumption than the present restriction with this exception; it was then permitted for alcoholic beverages to be consumed on the premises of an Ordinary provided the keepers thereof had given bond that they would have available accommodations for the traveler and his horse, and that they would obey the law. This was the law of 1623. This law, as it dealt with the question of alcohol, provided that prices should be regulated by the colonial assembly; that credit should be

3. Ibid. p. 39.

4. Standard Encyclopedia, Vol. 6, p. 2768.

5. Ibid. p. 2768.

limited; that gambling would be prohibited within the Ordinary; that seamen would be harbored; that no sale would be made to a slave or an indentured servant without the master's consent; and finally, that the law as regarding Sunday closing would be obeyed. The law was to be administered by the county courts composed of the justices of the peace. These justices could extend a license to an Ordinary if they were willing to certify to the character of the innkeeper, and to the fitness of the inn. These licenses had to be renewed annually and a small, but increasingly larger fee was required to be paid to the Colonial Government.⁶

In 1644, the first Virginia law against bootlegging prohibited the illegal sale of wine, beer or spirits. The object of this law was more to regulate morals than to give aid to vested interests. The act also stated that no liquor debts were pleadable or recoverable by law which acknowledged another phase of life touched by the alcohol problem.⁷

As early as 1649 Virginia had six public brew houses. In 1655 the method of licensing ordinaries was changed from the accustomed way, that is, by application to the county justices, to that of permitting the applicant to appear before the commissioners of each county and apply for a license, said commissioners

6. Ibid. p. 2768.

7. Ernest H. Cherrington, The Evolution of Prohibition in the United States of America, p. 20.

now being charged with distributing alcohol beverage licenses.⁸ No other legislation concerned with the alcohol problem was passed until 1658 when drunkenness was defined and the laws provided that any person convicted of being intoxicated would not be eligible to hold public office.⁹ But of more importance to us was that in this same year the legislature provided that no more than two taverns would be permitted in any one county, and these had to be bonded if liquor was to be sold. No more legislation occurred until Bacon attempted to write into his constitution the provision that the manufacture and sale of ardent spirits should be prohibited. Although this failed to become the law of the colony, it was the first attempt to prohibit the use of alcohol by a constitutional amendment.¹⁰

Between the time of Bacon's attempt to write prohibition into the Virginia constitution until just previous to the Civil War, a total of some fifteen different laws were passed dealing with various phases of liquor control. In all of these only two legal modifications occurred; the first permitting retail selling by merchants for off-premises consumption under the then popular licensing system, and the second, occurring in 1858 which provided that free negroes might buy spirits if they could get the endorsement of three justices of the peace. This latter provision was repealed in 1860.¹¹

8. Ibid. p. 23.

9. Ibid. p. 24.

10. Standard Encyclopedia, op. cit. p. 2768.

11. Ibid. p. 2768.

As a product of the licensing system, the bell-punch or Moffett Register law, was enacted in 1877, creating by an ingenious device a way which led to the abolishment of the general tax or license fee. An instrument had been invented which automatically registered each drink sold. This method was not successful and was abandoned in 1880.¹² Another important event, occurring in 1877, was the introduction of local option. By this, people in various political subdivisions of the state could express their desire for or against the sale of alcoholic beverages. Local option exists today, and as of June 30, 1937, three cities, seven towns, and five counties in the State have made use of this legal right.¹³ The first Virginia county to speak its mind by means of local option was Montgomery, but is not listed today as one of the five that have so shown their preference on the problem of liquor control.

The next important legislation in the State was the passage of the Mann Act in 1903, supported by the newly organized Anti-saloon League, and providing that saloons could not operate in towns and cities which did not have police protection.¹⁴ The law was later strengthened in 1908 by the Byrd-Mann Act which did away with many distilleries within the State. It

12. Ibid. p. 2768.

13. Third Annual Report of the Virginia Alcoholic Beverage Control Board. p. 60. Printed by the Department of Purchasing and Printing, Richmond.

14. Standard Encyclopedia, op. cit. p. 2769.

is seen that Virginia was slowly developing a pronounced dry sentiment. In fact, so pronounced did it become that in 1910 and again in 1912 certain citizens tried to have put before the voters of the state, a referendum for State-wide prohibition, but both attempts failed. These efforts were not to go unrewarded for in 1914 a State-wide prohibition law was written on the statute books and in 1916 the General Assembly passed the Law Enforcement Code.¹⁵ In this way the State had gained prohibition by the voice of the people, and the Legislature was simply interpreting the people's wishes by enacting the Enforcement Code. Within two years after the passing of the Code, Virginia had the honor of being the second State to adopt the National Prohibition Amendment.

Sentiment in Virginia was not static. In 1920, because of a change of feeling in the State, the Law Enforcement Department which had been set up by the Enforcement Code of 1916 was practically abolished, accomplished by self-imposed inactivity more than by any other method. It was, however, revived in 1922 and placed under the Attorney-General's office where it remained until it finally went out of existence as a repeal of the 18th Amendment. The work which the Law Enforcement Department carried on is now done by one of the

15. Ibid. p. 2769.

Divisions of the Virginia A. B. C. Board.¹⁶

After Repeal

So far we have been interested in tracing the history of the control of alcohol in Virginia from earliest colonial times to the time of the repeal of the 18th amendment. With the coming of repeal the General Assembly and the citizens of Virginia were faced with the problem of liquor control.

It will be remembered that state-wide prohibition had been in effect in Virginia since November 1, 1916 under a law drawn by Senator G. Walter Mapp. This act was later strengthened, and at the time of repeal, Virginia was a dry state. It had been under the Layman act, introduced by George W. Layman, and which had succeeded the Mapp Act.

After the repeal of the 18th Amendment to the Federal Constitution it was apparent to most Virginians that the State would have to create some type of a liquor control system either by means of private licensing, or by State control of the manufacture and distribution of alcoholic beverages of more than 3.2% alcoholic contents by weight, if it wished to adequately meet the new conditions brought about by the passage of the 21st Amendment.

Therefore Governor John Garland Pollard appointed a com-

16. Ibid. p. 2769.

mission, composed of fifteen men in the State some of wet and some of dry inclinations, to make a study of the various possible ways in which Virginia might handle efficiently the liquor control problem. This committee was composed of Justice John W. Eggleston of Accomac, chairman; Charles W. Moss of Richmond, secretary; and G. W. Layman of Craig, Judge John L. Ingram of Richmond, C. O'Connor Goulrick of Fredericksburg, Attorney-General A. P. Staples and George W. Mapp of Accomac, Howard S. Zigler of Timberville, Wilbur S. Hall of Richmond, Y. M. Hodges of Mecklenburg, Maitland H. Bustard of Danville, J. S. Barron of Norfolk, Senator A. E. Shumate of Giles, Judge John Paul of Harrisonburg, and Henry T. Wickham of Hanover.¹⁷ The committee, called the Liquor Control Commission, first met in Richmond on October 11, 1933, and held subsequent meetings on October 23 and 24, November 23 and 24, and December 12 and 13. Several of these meetings were open to the general public so that different expressions of opinions might be heard and considered.¹⁸

Previous to these committee meetings, the Rockefeller Foundation of New York had published a report entitled "Towards Liquor Control", which was chiefly the work of Raymond B. Fosdick and Albert L. Scott.¹⁹ The amount of influence this re-

17. Richmond News Leader, January 4, 1938, p. 3.

18. Richmond Times-Dispatch, December 23, 1934; supplemental section, p. 1.

19. Raymond S. Fosdick and Albert L. Scott; Towards Liquor Control. For the Rockefeller Foundation, Harper & Co. publishers.

port had upon the Liquor Control Commission will be better seen after a survey of the Foundation report, followed by the Commission's report to the Governor and General Assembly.²⁰

The Rockefeller Foundation report begins by stating that "no system of liquor control can be successful which does not command the approval of the Community". It outlined the principles upon which a substantial degree of public support exists. Briefly they are as follows:

1. At all costs - even if it means a temporary increase in consumption of alcohol - bootlegging.....must be wiped out.
2. Wide areas of the public are unconvinced that the use of alcoholic beverages is in itself reprehensible.
3. The Saloon, as it existed in pre-prohibition days, was a menace to society and must never be allowed to return.
4. America is inclined to believe that there is some definite solution for the liquor problem.²¹

The report attempts to draw certain conclusions, the chief of which may be briefly summarized as follows:

1. State-wide, bone-dry prohibition will not prove successful in controlling the alcoholic problem.
2. The experience of many countries shows that a state control system through a central authority which maintains an exclusive monopoly of retail sale for off-premises consumption is the best method of handling this problem.²²

20. Richmond Times-Dispatch for December 23, 1934; supplemental section, p. 1.

21. Fosdick and Scott, op. cit. p. 15.

22. Ibid. p. 18.

In order to point out that there is another alternative to the State-store control of retail sales, the Foundation report acknowledges that some method is available whereby the State would establish a board with the privilege of granting licenses to private persons, and cities, in its opinion, what should be the powers and procedure given to such a board.

The Foundation advocated a system of licensing whereby the State should set up a licensing board, appointed by the governor and having State-wide authority and responsibility. This board should have a managing director appointed by the governor and employed on a full-time basis. The personnel of the Board should be appointed upon a merit basis, and the members named on it for a definite term of office and be eligible for re-appointment. The house or establishment which would be licensed to dispense liquor should in no way be connected with any distiller or brewer. The number of such places able to sell liquor must be limited by the licensing law or by administrative orders, and the character of the place well scrutinized by the Board before passing upon its eligibility for a license. These licenses should be classified as to the inherent differences between wine, whiskey, and beer; while the hours which such establishments would be permitted to operate should be under the control of the Board.

This in brief would be the method and principles under

which a Board controlling the sale by private licensees should operate according to the Rockefeller Foundation.²³ I include this so that it may be seen that, although the Liquor Control Commission did not recommend this method in its majority report, the minority report of this Commission did look with favor upon such a suggested way.

After a consideration of the question of a state-licensing system, the Foundation report then turned its attention to what it considered the better method of handling the liquor problem. This would be a system of State management of the distribution and sale of all alcoholic beverages heavier in alcoholic content than 3.2 by weight. It made its decision based on the study of several liquor commissions which are State handled and are known to be working satisfactorily; to wit, the Quebec Liquor Commission; the Bratt system in Sweden; and the Norwegian and Finnish wine and alcohol sales monopolies to mention the more important. The system as used in Quebec will be contrasted with the one which the report recommended because it parallels rather closely the system as finally established in Virginia.²⁴

Under the State Monopoly plan the report recommends that a Board be created by the State which should have ex-

23. Fosdick and Scott, op. cit. p. 41 and following.

24. Ibid. pages 182 and following.

clusive right within the State to sell or control the sale of all alcoholic beverages. This would include wines, whiskey and beer whose alcoholic content exceeded 3.2% by weight. The Board should likewise have the right to own or lease and to operate retail stores and to sell by the package for off-premises consumption of alcoholic beverages. The Board ought to be limited in this respect, that it should be bound to follow the wishes of the community regarding the installation of a store, as shown by a local option vote. The right to acquire or lease warehouse space, blending and processing plants quite rightly would accrue to the Board. The right of the Board to fix prices and change the same at will should not be open to question, nor should that privilege of the Board to require personal identifications of the purchasers be denied to it. Concerning the sale of beer and wine for on-premise consumption, the Board would have exclusive jurisdiction over the issuing of licenses for the establishments where on-premise drinking would take place. In the majority of cases these establishments would be hotels, restaurants, clubs, railway dining cars, and passenger boats. These places might serve drinks with or without meals as they might see fit.

The Rockefeller Report also felt that such a Board should have the power to require private manufacturers of alcoholic beverages within the state to certify the amount of such beverages manufactured in the state, the amount shipped

outside, and in this conjunction the Board would work hand in hand with the Federal government. Thus was set forth the general powers of the state-control of alcohol working under an administrative creation of the State, the so-called Board.²⁵

We will now examine the Foundation's report as it deals with the organization of the Board or Authority as it may be called. It advised that the Authority be invested in a Board of Directors consisting preferably of three persons. These members would serve full time and would not during their services be connected with any other businesses. Their salaries should be adequately high to insure getting persons of outstanding ability. It would have full charge of all matters of policy and should have the right to hear and settle all complaints and disputes. One of the members of the Board would hold the rank of chief regardless of the title given him. The Board might conceivably be internally organized into the following divisions:

1. Retail shops and agencies.
2. Permits.
3. Treasury.
4. Inspection.
5. Purchasing.
6. Personnel.
7. Records and Statistics.²⁶

A chemist would also be attached to the Board for analyzing the stock. One or more lawyers would be assigned to the

25. Ibid. p. 63.

26. Ibid. p. 70.

Board to form its legal staff and employees should be hired upon some merit basis established by the Chief of the Board. As to the profits which may accrue to the Board, no consideration for the revenue needs of other State Institutions, as hospitals, etc., should be considered.

The place where the liquor was to be sold was given consideration by the Rockefeller Foundation, for in the report they emphasized the fact that the old-time saloon must not come back, and therefore the new State store should present a most modern appearance and compare favorably with any other modern and respectable business. This should be an outcome of the realization of the Board that their objective is social rather than financial.²⁷

The Foundation Report stressed emphatically the following three points, to wit:

1. The elimination of direct retail sales by the Board through the creation of a private liquor sales corporation under the jurisdiction of the Board.
2. A plan for the establishment of agencies for the sale of spirits for on-premises consumption.
3. A plan for the establishment of personal purchase permits.

The Report as far as it might be applicable to Virginia then concluded with a discussion of the effect of high and low taxes on alcoholic beverage. From this discussion the main conclusions are listed below.

27. Ibid, p. 94.

- "1. If a low tax prevailed the results would be (assumption only) :
 - a. the volume of consumption of spirits would be high
 - b. the illicit manufacturer and the bootlegger would lose their market
 - c. the system of liquor corruption of police, politicians, and lower courts would disappear for lack of funds
 - d. there would be little tax evasion, but the revenue would be small
2. If a high tax prevailed the results would be: (assumption only):
 - a. the consumption of legally produced liquor would be small
 - b. the moonshiner and the bootlegger and the whole system of liquor corruption would flourish
 - c. substitutes more harmful than seasoned spirits would be increasingly used
 - d. the revenue would be large in spite of the extensive illicit and untaxed liquor trade and the restriction of consumption. " 28

In regard to a high tax the Foundation's Report held that, "It is clearly seen that high taxes cannot be employed... for the reason that they would furnish indispensable support for the illicit liquor business."²⁹ This has been the guiding principle of the Virginia Alcoholic Beverage Control Board from its inception. The Foundation's report went on to suggest that as a solution a middle-of-the-road policy be followed in the matter of taxing the sale and manufacture of spirits.

In its report the Rockefeller Foundation gave some very

28. Ibid, p. 110.

29. Ibid.

suggestive ideas which were carefully studied before the Liquor Control Commission brought in its report to Governor Perry who in 1934 had succeeded Governor Pollard. But before turning to their report we should observe briefly how the Canadian province of Quebec handles the liquor problem. We feel this worthy of scrutiny as many of its features were to influence the Virginia commission which was studying the control problem. As operated in Quebec we see that:

1. There is a Liquor Commission appointed by the Lieutenant-Governor-in-Council consisting of five members. Has a retail store system owned and operated by the Province. No sale by the drink, but by packages for off-premises consumption.
2. The manufacture is in private hands. Commission has strict supervision over all distilleries and breweries.
3. All sales of the distilleries made within the province are made to the Commission. Commission has its own warehouses which supply all governmental stores. Wine only sold through government stores, but beer may be sold by private licensees such as grocers, etc.
4. Mail orders may be sent into local option territory from government headquarters in Montreal and Quebec.
5. All private licensees must get licenses from the Commission.
6. No individual permits required.
7. One bottle of spirits to a sale; no limit on wine and beer.
8. Stores under certain closing hours.
9. Licensed breweries sell direct to licensees. Beer can only be sold by the glass in licensed establishments and only with meals. Such establishments are hotels, taverns, clubs, restaurants, railway dining cars, and passenger vessels.
10. Distilled spirits sold same as beer and wine.
11. Advertising is permitted the same as other kinds of advertising.
12. All profits from government stores go to the provincial treasury.
13. Breweries in Quebec pay a 5% monthly tax on gross sales. Breweries outside of the province put a 5% tax on gross sales in Quebec. 30

Liquor Control Commission

We would expect the Rockefeller Foundation report to exert some influence upon the proposed plan which the Liquor Control Commission handed to the Governor and General Assembly. We will now investigate the Commission's report and notice what influence if any they receive from the Rockefeller Foundation Report. In the analysis of the A.B.C. Board as it is now operating can be seen how these various ideas concerning liquor control have been incorporated into the Virginia system. First, however, let us examine the majority report of the Control and then notice the features of the minority report which differed from the one subsequently adopted to a large degree in toto. Those members signing the majority report were Eggleston, Moss, Layman, Shumate, Staples, Bustard, Hall, Hodges, Barron, Ingram, Goolrich, and Paul.³¹

The Control Commission early decided that beers and wines of less than 3.2% were non-intoxicating and were not to be included within the report. In prefacing their report the Commission said, "We have carefully examined the various systems of liquor control in operation in the Canadian provinces and the European countries, as well as those being formulated by the several states of the Union. We have read and considered the views expressed by leaders and others in the gen-

31. Supplemental section of Richmond Times-Dispatch for December 23, 1933.

eral field." The Commission kept in mind the view of the General Assembly as it was formulated upon the ballot presented to the voters of Virginia in the referendum of October 3, 1933. It was at this time that the State Legislature had asked the people of the State to vote to support or reject the following proposed law,

" 'A plan of liquor control' means a plan permitting and regulating the manufacture, sale, use, and handling of intoxicating liquors under provisions prohibiting the saloon and reserving to each county and city the right to vote to prohibit the sale of such liquor within each county or city."³²

After some discussion the Control Commission decided there were certain fundamental principles which should be the basis for a plan of liquor control in the State. The Committee said concerning these that, "Temperance, social betterment and respect for law should be the prime objectives of any system of Liquor Control. Taxes should be levied as a method of promoting social control and not primarily for raising state or store revenues. The System should not have for its object the rehabilitation of the finances of any class of citizens, any industry, or locality." They were of the mind that any system which would be adopted must have the "respect and support of a large body of the citezenry."³³

32. Ibid.

33. Ibid.

The Committee set to work and finally drafted a model law which the State could use as a basis for the law which it eventually must pass in order that liquor might be controlled within the territorial limits of Virginia.³⁴ The law of 1934 which the General Assembly passed and later amended in 1936 follows very closely the model law as presented by the Commission.³⁵

In the model law it was suggested that Local Option should govern; that is, to sell alcoholic beverages where desired and to refrain from selling where not desired. The sale of liquor should be brought out in the open and on a high plane in order to eliminate the bootlegger; that alcoholic beverages should be sold at such prices and under such conditions as would make it unprofitable economically and exceedingly difficult for the bootlegger to compete with the lawful dispensation of liquors and other alcoholic beverages. The private profit motive should be reduced to a minimum as this would tend to eliminate to a great degree an incentive to stimulate sales and hence cut down consumption, it being the idea of the Commission that in this way true temperance would be achieved. It will be later pointed out that one of the policies adopted by the A.B.C. Board has been that of being ready to supply a demand but not to create one. In order to achieve this ideal

34. Ibid.

35. Chapter 94, Act of the General Assembly of 1934 as amended by Act of 1936.

the Commission recommended that no manufacturer should have a direct or indirect interest in the places where the beverages would be sold. The reason for this is apparent. Also as a means of reducing the consumption of beverages of greater alcoholic content, it was the Commission's idea that wines and beer should be easier to obtain than the more ardent spirits.

In consideration of the ways by which beverages could be dispensed, the Control Commission arrived at the conclusion that there were but two ways; namely, first by a private licensing system, and second by a State Control Plan whereby the State would take over as a monopoly the retail sales, by means of its own stores, for off-premises consumption. The Committee recommended a combination of the two methods patterned after the Quebec Plan heretofore mentioned. The General Assembly looked with favor upon the second way but disregarded the first.

With regards to private licensees such as hotels, dining cars, passenger boats, clubs, and restaurants it was recommended that these should be permitted to sell only wine and beer at retail for consumption on the premise. This recommendation found its way into the law which went a step further than the Quebec prototype in that these licensees would have the right to sell these kinds of beverages with or without meals. Other types of licensees should be allowed to sell sealed packages for off-premises consumption. The Virginia law as it finally stands makes this possible through its various kinds of li-

censes available to licensees. This will be pointed out in the following chapter. The Committee was emphatic however, that all such sales should be under rules and regulations as promulgated by the "Board", the instrument which the Commission recommended to administer the law or laws which the General Assembly might pass. Furthermore, the Liquor Control Commission advised that all wine sold for off-premises consumption be purchased from the Board. In the first year of its existence this was the method which the Board adopted for the sale of wine. However by a later change in the law, wine is now purchased by the licensee direct from the winery, but under the Board's supervision. It was also the idea of the Control Commission that wine should be purchasable from the State Stores in sealed packages for off-premises consumption. It might be added at this point that there is no sale of any type of beverage in a State Store for on-premise consumption. The memory of the saloon was responsible for this fact.

The Commission recommended that distilled spirits should be sold only at the State Stores for off-premises consumption, as the Commission felt that hotels and restaurants and the other types of private licensees previously mentioned should not be allowed to sell whiskey by the drink. This recommendation was very definitely followed. It is one of the few features of the law as it now stands that has caused any controversy.

Finally the Commission suggested that liquor be sold at cost until the bootlegger be driven out of business, but this suggestion was not followed, although the A.B.C. Board did adopt a policy of selling certain brands low enough that effective competition with the bootlegger could be offered; thus the smallest quantity that may be purchased is the pint selling as low as sixty-five cents for whiskey, and fifty cents for gin.³⁶

For effective administration of the liquor law the Commission recommended that the State create a Board composed of three members who would be appointed by and responsible to the Governor. These members were to be subjected to suspension or removal by the Governor at his pleasure, and like any other state employee be impeachable under the Constitution of the Commonwealth. One of the members should be designated as chairman. The term of the members should be five years and the first appointees should have staggered terms that one might be appointed for one year, one for three, and one for five, but all subsequent appointments be for a five year term. The members should receive adequate salaries which the Commission recommended as being \$7,500. per annum. Each member of the Board would devote his entire time to his work, and should hold no other office while serving on the Board.³⁷ (To see

36. First Annual Report of the Va. A.B.C. Board, p. 22.

37. Supplemental section in the Richmond Times-Dispatch for December 23, 1933, p. 4.

how completely the above recommendations of the Liquor Control Commission were followed, the reader is referred to Section 3, Chapter 94 of the Acts of the General Assembly of 1934, as amended by Acts of the Assembly of 1936.) Precisely, the Commission recommended that, "no member, officer, agent or employee of the Board should directly or indirectly, individually, or as a member or stock-holder of a corporation, have any interest whatsoever in the manufacture of, or dealing with alcoholic beverages. Neither should he have any interest in any enterprise, industry, or property or land where alcoholic beverages are manufactured or sold, other than his contract of employment with the Board.³⁸ The Commission felt that by such a recommendation it would divorce entirely the possibility of any person bringing influence to bear which would in any way tend to increase sales and hence consumption, or which would favor such a person financially, tending to bring forth a favored class that might work to bring politics into the administration of the Act. This was one thing the Commission clearly did not wish to see happen in Virginia.

Following the recommendation to the Governor that the State provide for a Board to administer the liquor law setting up a state-store monopoly system, the Liquor Control Commission made the following recommendations as to what the powers and duties of the expectant Board should be:

38. Ibid.

- "1. The exclusive right within the State to sell or control the sale of all alcoholic beverages, including spirits, wines, beer, ciders, containing more than 3.2% alcohol by weight.
2. The right to establish, maintain and operate State Stores for the sale of these distilled spirits and wines by the package to the consumer for off-premise consumption.
3. The right to acquire, occupy and improve land and buildings for these purposes.
4. The right to issue and revoke permits and licenses and to private licensees for the sale of wine and beer at retail in sealed packages for off-premises consumption, and to establish the necessary regulations governing such sales.
5. The right to issue and revoke permits and licenses to licensees such as hotels, restaurants, clubs, dining cars, passenger boats, for the sale of wines and beers with or without meals, for consumption on the premises and to establish the necessary regulations governing such sales.
6. The right to issue permits and licenses to private licensees for the manufacture of alcoholic beverages and to establish the necessary regulations governing such manufacture, not inconsistent with the Federal statutes and regulations dealing with the same.
7. In establishing such stores and issuing such retail licenses the Board should respect the decision of communities which may exclude the same under the local option features of the act.
8. The power to hold hearings on complaints about matters in dispute, including the power to subpoena witnesses.
9. The power to determine all policies and regulations for liquor control not specified in the law, and to promulgate all rules and regulations not inconsistent with the terms of the act necessary for carrying out the provisions of the act and to alter, amend, or repeal the same." 39

As it concluded its report the Liquor Control Commission made several other suggestions which it embodied in the model law it presented to the Governor and General Assembly. It was of the opinion that the Board ought to keep accurate account

of all funds which it received and that its books should be audited periodically by the State Auditing Office. Furthermore, it should from time to time make reports to the Governor concerning its workings.

The Commission felt that the State Stores should be placed in such counties, towns and cities as the Board deemed advisable keeping in mind any preference as shown by local opinion. It also felt that a store should not be placed in a community which could not financially support the same. Each store would be under the supervision of a person appointed by the Board as store manager, with as many aides as the business would require, but overloading the store personnel would be frowned upon. Salaries should be paid regularly and not based upon revenues collected. A customer should be able to take from the store up to one gallon at a purchase. Finally the stores would not be open for business on Sundays, Holidays, Election days, or at any other time when the Board might see fit to close said stores.⁴⁰

As to finances the Commission thought that all monies received by the Board should be placed in such banks as the Board would choose. The Board was to make all payments necessary for its operation, and any profits accruing to the Board should be paid into the General Fund of the State, after deducting an amount, as the Governor might direct, for a re-

⁴⁰. Ibid, p. 3.

serve fund. In order that the control system might get started it was suggested that the General Assembly appropriate sufficient money to see the new venture on its way.

It was deemed best that all licenses should be gotten through the Board and that this be an exclusive power adhering to the Board's. But this would not be intended to prohibit local communities from the right of issuing local licenses to private licensees.

As a last thought the Commission recommended that the contemplated act should include the privilege of local option in county, town, or city of 1500 inhabitants or over. This should be effected by a petition of not less than 30% of the number of voters counted for in presidential elections in these places. The only questions which should appear on local option ballots are:

- "1. Shall the sale of beer and wine (containing more than 3.2% of alcohol by weight) be permitted in said county, town, or city?
2. Shall the sale of alcoholic beverages other than beer and wine be permitted in such county, city or town?" ⁴¹

One thing the Commission did not recommend was an individual permit system such as were in use in certain Canadian provinces and in Sweden. They did suggest that the following types of persons be prohibited from purchasing beverages:

41. Ibid. p. 3.

1. those convicted of driving an auto, car, truck motorcycle while intoxicated.
2. habitual inebriates (except on physicians' prescription).

It is interesting to note that as the system is now conducted, in every State Store is a large sign which reads to effect that the following people cannot buy merchandise, to wit:

1. Those under twenty-one
2. Those interdicted
3. Those intoxicated
4. Any patient under supervision or control of any State Hospital, whether such patient be on furlough or otherwise.

As the decision as to whether a customer comes under any one of the above group is purely the personal opinion of the Store manager or the clerks, it is quite likely that many of the excluded persons manage to buy the merchandise they wish from the State stores.

The majority report of the Liquor Control Commission was signed by Eggleston, Moss, Layman, Shumate, Bustard, Hodges, Barron, Ingran, Coolrick, and Paul. With this group concurred G. Walter Mapp, except that he favored the dispensary plan. Eggleston, Barron, Staples, and Moss wanted to include provisions for the distribution of the profits on this basis; 1/3 to the State, and 2/3 to the localities. Coolrick concurred with the majority but wished to have the profits to localities used for school expenses. Howard S. Zigler refused to sign the majority report because he felt the sale of wine and beer by private license would bring back the sa-

loon. Included with the majority report was a minority report presented by State Senator Wickham. The chief points in his report was a condemnation of sections 4 and 5 of the model law which the Commission had drafted as part of its report. He thought these sections gave the Board dictatorial powers. He also opposed the right of the Board to employ people at \$1,000. per annum or less without the Approval of the Governor, as setting up a political machine. That this fear is of little value is seen in the fact that the total personnel of the Board as of June 30, 1937 was only 613.⁴² Senator Wickham also objected to the State going into the liquor business because liquor is corruptive and hence the State would be corrupted. To off-set this Mr. Wickham would put the dispensing of liquor in private hands, and the decision as to whether an applicant was worthy or not into the hands of the State judges. That this might not tend to create an unsatisfactory political condition we will not attempt to say.

The report of the Liquor Control Commission being completed it was presented to the governor and through him to the General Assembly. In its session beginning in January 1934 the legislature took up the report and after due debate and discussion there emerged the Alcoholic Beverage Control Act which established the Virginia Alcoholic Beverage Control Board.

42. Third Annual Report of the Va. A.B.C. Board, p. 58.

In the next chapter will be described the organization, powers, and procedure of this newly created government agency of the Commonwealth.

CHAPTER TWO

The Organization, Procedure, and Powers of the Board of Liquor Control

I Organization

The Virginia Alcoholic Beverage Control Board began its existence on March 22, 1934 as a result of an Act of the General Assembly of Virginia.¹ Under the power delegated to him by this Act,² the Governor appointed S. Heth Tyler a lawyer and former mayor of the City of Norfolk as chairman of the newly created Board. To complete the membership of the Board R. McC. Bullington, whose business had been in wholesale and retail paint activities, and the former State Motor Vehicle Commissioner T. McCall Frazier were appointed by Governor George C. Perry. Mr. Tyler has since resigned to return to private life, and Hunter Miller, lawyer and former State Senator, was named to succeed him.

Early in the history of the new Board's activities it was decided that there should be an informal division of the

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1. Chapter 94, Acts of the General Assembly of 1934, section 3 paragraph (a), page 18. Division of Purchase and Printing. State publication, 1936.
 2. Ibid. paragraph (b).

work among its members, although all matters concerning policies would be taken by the Board as a unit. Under this arrangement Mr. Tyler would supervise all matters relating to the law and its regulations, and to the issuances of licenses. Mr. Bullington was to attend to the matters pertaining to transportation, purchasing and merchandising. To Mr. Frazier was given the supervision over real estate and insurance, inspection, enforcement, accounting and financial control, publicity, statistical records, and the management of personnel. With this division of labor the Board was ready to begin operating.

At first it was necessary to borrow from the State Corporation Commission, Mr. C. M. Chickester, an attorney on furlough. Upon his return to the Commission, the Board had the services of Mr. William R. Shands, Director of the State Division of Statutory Research and Drafting, as its counsel until this work was taken over by G. Stanley Clarke upon his appointment as Assistant-Attorney General on July 1, 1935. This appointment gave the Board the benefit of legal counsel directly assigned to them.³

The Board selected a secretary who is charged with keeping the records of all Board meetings, and with being responsible for a docket in which is listed all hearings scheduled to come before the Board.⁴

3. Second Annual Report of the Va. A.B.C. Board, part one, p. 1.

4. Ibid.

At its earliest opportunity the Board created six divisions each headed by a director responsible to it. These Divisions were: The Division of Inspection and Enforcement, Division of Licenses, Division of Merchandising, Division of Real Estate and Insurance, Division of Accounts and Stock Control, and the Division of Press Relations and Statistics.⁵ The duties of these various divisions are in keeping with their nomenclature, and briefly are as follows:

Division of Licenses.

Receives all applications for licenses which are authorized by the Act; holds hearings on applications which have been protested; makes recommendations to the Board for the issuance of all licenses.

Division of Inspection and Enforcement.

Makes an investigation of all persons who apply for a license and conducts a routine inspection and makes a report on the manner in which the licensees are carrying on their business; co-operates with local officials in the enforcement of the Act; has charge of the supervision and inspection of all State stores with regards to the proper conduct and personnel behavior in each store. (This department was subsequently divided into three departments.)

Division of Merchandising.

Gets price information; operates a chemical laboratory and the warehouse in Richmond; orders the shipment of merchandise from the manufacturer; makes recommendation of periodic purchases; has charge of the initial interviewing of all liquor salesmen; invoices and ships all merchandise to state stores; and has supervision over all sales to licensees.

Division of Real Estate and Insurance.

Investigates all store sites; gives approval to terms of all leases; has charge of the physical equipment of the stores; takes care of the insurance coverage. (This division has been absorbed in the Division of Store Supervision.)

5. Second Annual Report of the Va. A.B.C. Board, 1935-36, part one, p. 1.

Division of Accounts and Stock Control.

Has charge of all accounting records; gives approval to invoices; audits store sales and records.

Division of Press Relations and Statistics.

Gives to press and public all information which relates to the Board's actions and its policies; prepares statistics on consumption of merchandise; prepares routine and special statistical studies.

Each of these six divisions has a number of bureaus connected to it. Thus with the Division of Merchandising are related the Bureaus of Price Records, Liquor Purchases, Laboratory, Sales to Licensees, Traffic Manager, and Warehouse. The Sales to Licensees Bureau is directly tied up with the licensees who also are under the supervision of the Director of the Division of Licenses. The traffic manager is connected with the Warehouse and this is directly connected with the State stores. All bureaus operate under the superintendency of the head of the individual Division.

By indirect control, the Division of Stock Control is connected with the State Treasurer, Comptroller and Auditor. This is effected by the Act providing that the auditor must examine and audit all books and records (Sect. 7 (c),); salaries must be drawn by the Treasurer (Sect. 17); and all profits over those authorized by the governor to be held as reserve, must be sent to the Comptroller for deposit (Sect. 16). This permits the State to keep close check upon the operations of the Board.

The Division of Inspection and Enforcement has under its

supervision certain subdivisions. On January 7, 1937 the Board' changed this division into three new divisions, each taking over one of the duties assigned to the Division originally.⁶ Thus this division gave birth to the Divisions of Enforcement, Inspection, and Store Supervision. As it was originally set-up there was under the division the bureaus of Store Supervision (now a division), which was connected directly with the State Stores, License Inspection which had a connection with licensees, Garage, and Law Enforcement.

In addition to the six divisions which were created, the Board has direct contact with the Commonwealth's Attorneys through the Assistant-Attorney-General furnished to the Board. The Board also created an administrative subdivision headed by a supervisor who has charge of such items as the mail desk, files, telephone, infirmary and office supplies. As its final bureau there was established one which has charge of purchases other than liquor, such as office equipment, etc. which are purchased from the State Department of Purchase and Printing. I find the administrative set-up of the Virginia A.B.C. Board to be a hierarchical or strong executive type of organization the chart of which, "resembles a pyramid with the chief administrative officer at the apex and the most remote subordinates at the base."⁷

6. Third Annual Report of the Va. A.B.C. Board, p. 12.

7. John M. Pffiner, Public Administration. The Ronald Press, 1935.

II Powers

The General Assembly followed closely the Liquor Control Commission's model law in drafting the Act of 1934.⁸ These powers and functions of the Board may be summarized. The Virginia Alcoholic Beverage Control Board is authorized to buy and sell alcoholic beverages; to control the possession, sale and transportation of beverages; to own and operate State stores for Liquor dispensation; to lease property for placing State stores; to determine form and capacity of packages offered for sale; to issue licenses to private licensees; to employ persons; and to do all other things necessary for operating a State store Liquor Monopoly system.⁹

The powers of the Board are not entirely contained in the section of the Act found in appendix B of this paper. Others are found in the sections of the Act which follow section four. Particular attention is directed to section five as it is this section which gives to the Board the right to issue administrative orders. There has been some question by various interested parties within the State as to whether or not the General Assembly erred in giving the Board the right to issue such orders which have the binding force of law.

8. Chapter 94 of Acts of the General Assembly of 1934 as amended by Acts of 1936.

9. See appendix B.

At the invitation of the chairman of the Virginia A.B.C. Board the original Liquor Control Commission met in Richmond in January 1938 where the question concerning the right of the Board to issue administrative orders was discussed. Some of the members of the Commission felt that in so doing the General Assembly had over stepped its constitutional rights in giving away to one of its agencies the privilege of promulgating orders having the force of law. However, the consensus of opinion was that this was a perfectly legitimate grant of the Legislature and as such should not be withdrawn from the Board.¹⁰ We have only to examine the practice of the Federal Government regarding similar grants to its various agencies to see that the weight of public opinion is willing to allow a governing body to empower one of its agencies with quasi-legislative functions. The Inter-State Commerce Commission does it, as does the Federal Communications Commission, to name only two. Students of government are more or less agreed that delegating power to an administrative agency of government to expedite the work of government is permissible and advantageous. As the authors of "After Repeal" say, "...commissions have been commonly charged with making regulations in the nature of laws supplementing the control act;...The exercise of these functions...seemed to

10. Richmond News Leader, January 4, 1938. page 3.

many to call for ... governmental commissions".¹¹

It was section five of the Act of 1934 which gave rise to the only court actions in which the Board has been involved in. Before this section was amended it read:

"Power to make regulations; how published; effect thereof.-

(a) The Board may from time to time make such regulations not inconsistent with this act as the Board shall deem necessary for the carrying out the provisions of this act, and from time to time alter, repeal, or amend such regulations or any of them. Such regulations shall be published at least once in some newspaper published in the City of Richmond and in any other manner which the Board may deem advisable, and upon being so published shall have the force and effect of law.

(b) Nothing in this act contained shall require such regulations to be uniform in their application.

(c) Prima facie evidence of any such regulation may be given in all courts and proceedings by the production of what purports to be an officially printed copy of such regulation, alteration, repeal, or amendment."

Because of the authority invested in them by Section 5 as it originally stood, the Board adopted a regulation prohibiting the transportation of more than one gallon of distilled spirits without a permit. The validity of the Board's regulation was attacked in the Circuit Court of Lynchburg, and in the Corporation Court of the City of Norfolk.

In the Lynchburg case, Judge Aubrey E. Strode delivered an opinion in which he stated that "the power of the Board to make such a regulation was limited to the carrying out of some actual provision of the A.B.C. Act, and as there was no

11. Harrison and Laine, op. cit. p. 112.

section in the A.B.C. Act prohibiting such transportation, the Board was lacking in power to adopt such a regulation." He thus declared that the regulation which the Board had adopted was in excess of its delegated authority.

Under almost identical facts, Judge Sargeant in the Corporation Court of the City of Norfolk held that since in his opinion it was against the law for the Board to sell more than one gallon of spirits to a customer at a single sale, that it was necessary for the Board to prevent the transportation of more than one gallon, except under conditions that would guarantee that the whiskey was being transported for lawful purposes. He therefore declared the Board had the authority to make the regulation, and upheld the Board on this point.

Neither of these cases reached the Supreme Court. But in a case regarding the same regulation heard before Judge White in the Circuit Court of Southampton County, Judge White held the same as did Judge Strode in the Lynchburg case.

Due to the differences in opinion among the Judges, the Board requested the General Assembly to so change Section 5 as to broaden out the powers of the A.B.C. Board to make regulations which would permit the Board to better carry out the provisions and spirit of the A.B.C. Act. This the General Assembly did in 1936, as a comparison of the two sections will reveal.

These were the only cases which arose on the regulation

powers of the Board, excepting a case known as Williams vs. Commonwealth, 192 S.E., 795. In 1936 Section 49-A was added to the Act which provided that the transportation of alcoholic beverages should be in accordance with the regulations of the A.B.C. Board. In pursuance of this authority the Board adopted the regulation requiring persons transporting more than one gallon of alcoholic beverages within, into or through the State to file with the Board a bond obliging them to transport only in accordance with the law. A shipment of liquor began in Kentucky, with Baltimore, Maryland as its goal, the consignee residing there. In passing through Virginia, the drivers of the carrier were apprehended and could not show evidence of having had a bond. The case came before the Corporation Court of Bristol and a conviction against the drivers of the truck was secured. On appeal to the Supreme Court, the lower court was reversed on the grounds that the requirement of a bond was an interference with Interstate Commerce. Thus the case was not decided on whether the Board had the power to promulgate the regulation or not.¹²

Following the amendment of the Act of 1934, Section 5 now reads:

(a). The Board may from time to time make such reasonable regulations, not inconsistent with this act, nor the general laws of the State, as the Board shall deem necessary to carry out the purposes and provisions of this act, and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages, or

12. Cases and decisions furnished by Assistant-Attorney General connected with Board.

any one or more of such illegal acts, and from time to time alter, repeal, or amend such regulations or any of them. Such regulations shall be published at least once in some newspaper published in the city of Richmond and in any other manner which the Board may deem advisable, and upon being published shall have the force and effect of law. The Board shall certify to the clerks of all circuit courts and city courts of record having criminal jurisdiction copies of all regulations adopted by the Board; such clerks shall keep on file for public inspection all such regulations certified to them by the Board. (Administrative Order No. 333 further makes this power of the Board clear.)

(b). Nothing in this act contained shall require such regulations to be uniform in their application.

(c). Justices and courts shall take judicial notice of the regulations of the Board made, published and filed with the provisions of the act.¹³

III Procedure

That a clear picture of the procedure of the Board may be gained we will discuss the work of each Division of the Board individually, and then the Board as a whole.

The Division of Licenses.

The issuance of licenses, which is one of the major functions of the Board, begins with this division. The Board is empowered to issue the following types of licenses:¹⁴

- a. Distiller
- b. Winery
- c. Brewery
- d. Bottlers
- e. Wholesale beer
- f. Wholesale druggist

13. Acts of the General Assembly of 1934 as amended by Acts of 1936, chapter 94, p. 20.

14. Page 25, chapter 94, Acts of the General Assembly of 1934 as amended by Acts of 1936.

- g. Wholesale wine distributors
- h. Retail on-premise beer and wine
- i. Retail on-premise beer
- j. Retail off-premise beer and wine
- k. Retail winery off-premise
- l. Retail off-premise beer
- m. Retail off and on-premise wine and beer
- n. Retail on and off-premise beer
- o. Druggists' licenses to Druggists
- p. Banquet.

When a person applying for one or more of the above types of license sends in his application on the appropriate form, together with his license fee as prescribed by section 22 of the Act, it is referred to this Division where it follows a formal procedure which may be summarized thus:¹⁵

- 1. Application checked as to form.
- 2. Receipt for the enclosed fee is mailed the applicant.
- 3. Application referred to the Division of Inspection for investigation.
- 4. Upon report from Inspection Division that no objections have been found, application is submitted to the Board for approval. (If any objections exist, applicant has right of a hearing on same.)
- 5. Application is checked against a protest file on which is kept all protests against any license or licenses kept by the License Division.
- 6. If Board returns the application as approved, it is checked against this protest file and if found to be above protestation, license is sent applicant.

In the first full year of the Board's operation, it was found by the License Division that between 25 and 35 percent of all applications were incorrect as to form, or the amount

15. First Annual Report of the Va. A.B.C. Board, p. 14.

of money sent it. This was hardly unexpected with the introduction of a new procedure. But as the licensees began to renew their licenses, this percentage has tended to decrease.

That time and expense might be saved by applicants living some distance from Richmond, it became the policy of the Board to have the Director of the License Division travel throughout the State and conduct hearings on applications and revocations. In the fiscal year of 1934-35 the Director held 627 application and 377 revocation hearings, traveling some 30,000 miles and being away from the central offices a total of 153 days. In 1935-36 a total of 785 hearings were held by the Director and the Assistant Attorney-General assigned to the Board. The next fiscal year of '36-'37 the two men held a grand total of 1402 such hearings. As of June 30, 1937 the Board through its Division of Licenses and with the assistance of the Assistant Attorney-General have conducted 3191 hearings on applications and revocations.¹⁶ Since it has been the habit of the Board to record verbatim these hearings, it now has on file well over 25,000 pages of recorded material.

Division of Inspection and Enforcement.

This Division was originally the Board's police bureau, carrying on the work of investigating the licensee before and after he received his license as well. It had charge of super-

16. Figures taken from the Annual Reports of the Va. A.B.C. Board; 1934-35 report, p. 15; 1935-36 report, p. 13; 1936-37 report, p. 12.

vision of the State Stores. On January 7, 1937 this division was divided into three separate divisions, namely the Division of Enforcement, Inspection, and Store Supervision. Some idea of the work of this Division in its original make-up may be gained from a study of the composite chart for its work in the first two years plus the chart showing its work in the third year as the new Division of Enforcement. Table #1¹⁷ shows the Division's Enforcement work, Table #2 the Inspection work. Table #3 shows the work of the Division of Inspection for the third fiscal year following the establishment of the New Division. The figures¹⁸ for these tables were compiled from the yearly reports of the Board as required by law. Section 7, Acts of the General Assembly of 1934⁴ as amended in 1936 provide that the Board shall submit to the Governor a report on, "such matters in connection with the administration and enforcement of this act as he may require, and shall annually make to the Governor a report for the twelve months ending on the thirtieth day of June in the year in which the report is made".¹⁹

On its inception as a single division, the Inspection Division had a personnel of thirty-five, six in the office

17. See Appendix A for all tables.

18. Annual reports of the Va. A.B.C. Board for the fiscal years of 1935-36-37.

19. Section 7, Chapter 94, Acts of 1934⁴ as amended in 1936, p. 21.

and twenty-nine in the field.²⁰ The field force being inadequate it was enlarged from time to time. After the division of the original Enforcement and Inspection Division into three divisions, the total personnel of the three as of June 30, 1937 was 112;²¹ allocated in this way, Store Supervision 33; Inspection 44; and Enforcement 35.

The Division of Inspection has charge of all work connected with determining whether an applicant measures up to the requirements that the Board has laid down concerning place of proposed business, character, etc. If this Division's report is unfavorable it is quite likely that the Board will refuse the application. It is also this Division's duty to inspect licensees from time to time to see they are obeying the rules and regulations which the Board has laid down.

The Enforcement Division now only concerns itself with such work as falls under the police work of the Board. The members of this division will act with local and Federal police officials to see that the State and Federal laws pertaining to illegal manufacture, sale and transportation of alcoholic beverages is kept to a minimum.

Division of Store Supervision.

This was the third division created from the original Enforcement and Inspection Division. As it now stands it in-

20. First annual report of the Va. A.B.C. Board, p. 15.

21. Third annual report of the Va. A.B.C. Board, p. 58.

cludes, besides the Superintendent, the Supervisor of Real Estate, five district store supervisors, office secretaries and the entire personnel of the State Stores.

Previous to the change it was the policy of other divisions of the Board to issue to the various store managers, instructions which concerned the store's relation to their divisions. Now all instructions must clear through the Superintendent of Store Supervision. This makes for centralization, elimination of possible duplications, and greater efficiency.

It is the duty of the Store Supervision Division to see that the stores are operated uniformly and efficiently and that the rules and regulations of the Board are observed by the store personnel. It is also charged with all matters where by the relationship between store and customer may be advanced.²²

Division of Merchandising.

It is through this division that the Board purchases its stock for its stores. However this is not the only work entrusted to the division. It is also charged with the control of the Warehouse in Richmond, the laboratory price records, sales to licensees and the stocking of the State Stores.

When the Board first began to operate, it required salesmen representing distilleries and wineries to submit to it a list of their products and prices. On the very first

22. Third annual report of the Va. A.B.C. Board, p. 13 and following.

day that hearings were held on these submitted lists, Mr. Frazier, who was to stock the merchandise, was literally swamped by the large number of salesmen clamoring for his attention. After a bit of confusion the first stock was purchased and there is now no confusion attending the placing of orders as many of the Board's orders go direct to the manufacturer. It took some time for the Board to determine which brands were preferred in the several communities where the stores were located. This knowledge has been of value to the Board for it has enabled them to stock the various stores with the brands popular in that locality, thus doing away with the useless practice of having a great variety of stock in each store.

When a new stock is produced by some concern, or when a concern desires to have their salesmen interview the purchasing official of the Board, for matters pertaining to the listing of the new stock or of some of the concern's particular brands, the salesman is now interviewed by the director or assistant director of the Division.²³ This person then requests a sample of the merchandise for chemical analysis. The final decision as to whether the brand will be stocked or not is up to the member of the Board who has charge of merchandising. At the present time Mr. Bullington is doing this for the Board.

23. First annual report, Va. A.B.C. Board, p. 16.

All stock must pass the chemical test as to purity, and must contain the ingredients which the manufacturer claims. This not only protects the customer, but also the Board. In order to determine this fact the stock is subjected to periodical chemical analysis, and it is understood by the manufacturer that any stock which fails of this chemical test will be returned to him at his expense and that he must replace the same with goods that will measure up to the chemical standard. If he refuses to do so the Board ceases to deal with him. Considering the vast amount of stock handled very little has had to be returned on this account. Wine has proved the most troublesome since it is very susceptible to atmospheric changes.

The only warehouse operated by the Board is located in Richmond and is under the supervision of a superintendent responsible to the Director of the Division. To the warehouse come all the merchandise, and from here it is shipped to the state stores. Also from here goes the merchandise to the private licensees.²⁴ This has been found to be economical and efficient. Records are kept of the daily shipments, both in-coming and out-going, which permits rapid restocking of depleted brands and makes possible a quick stock turnover, a quality desirable in any business. It is estimated that the

²⁴. Ibid. p. 17. (In regard to wine, private licensees may order directly from the Winery on order of the Board.)

warehouse turnover is once every ten days. This Division began with a personnel of 32, which had increased to 61 at the end of the third fiscal year.²⁵

Some idea of the vast amount of work done by this Division may be gleaned from the fact that at the end of the first fiscal year the warehouse had handled 780,000 cases;²⁶ 825,853 cases the second;²⁷ and 1,005,317 the third.²⁸ In the handling of such enormous quantities of breakable material it would not be unreasonable to expect a certain amount of stock loss through breakage. However for the three years of operation the combination stores and warehouse breakage only amounted to 13.79 bottles valued at \$9.93 for 1935;²⁹ 13.71 bottles worth \$8.77 for 1936;³⁰ and 19. bottles worth \$12.38 for 1937.³¹ (The values given are the averages.) The breakage which occurs in transportation to the warehouse is chargeable to the manufacturer.

The question early arose in the Division as to what disposition should be made of empty cartons. Originally it was left to the store managers to sell these if possible, but it was not long until the Board found that they could be sold

25. Third annual report, Va. A.B.C. Board, p. 58.

26. First annual report, Va. A.B.C. Board, p. 17.

27. Second annual report, Va. A.B.C. Board, p. 14.

28. Third annual report, Va. A.B.C. Board, p. 15.

29. First annual report, Va. A.B.C. Board, p. 17.

30. Second annual report, Va. A.B.C. Board, p. 15.

31. Third annual report, Va. A.B.C. Board, p. 15.

to a private person. Thus are the empty cartons now done away with. In the first year this amounted to a profit of \$492.29;³² second year it rose to \$6,686.30;³³ and then the following year to \$14,151.73.³⁴

The Merchandising Division keeps a list of the current prices of alcoholic beverages, delivery information, etc., from a large number of distillers and wine manufacturers, whether or not the Board is purchasing from those particular merchants. This is done that the Board might be able to compare their prices with those of other competing brands, and to adjust the Store prices when and as necessary. It has become the policy of the Board not to wait until a particular brand is depleted, but to replenish the supply as the stock gets low. This is done by the warehouse personnel keeping up to the minute records of the amount of stock on hand at all times. While the Board has only sought to keep on hand the brands most called for, it will order for a customer any particular brand which it does not stock.

Connected with this division is a bureau designated as Licensee and Express Sales. In the early history of the Board, it was thought that there might be persons who would not reside close enough to a State Store to be able to make use of its facilities. Hence the Board established a mail

32. First annual report, Va. A.B.C. Board, p. 15.

33. Second annual report, Va. A.B.C. Board, p. 15.

34. Third annual report, Va. A.B.C. Board, p. 15.

order system opening Store #299 in Richmond to handle this work, only to find that this service was not used so the store was closed on September 15, 1934 due to lack of sufficient business.³⁵ Now any orders of that nature are handled by the Merchandising Division. Most of these orders are from druggists who hold private licenses.

Operating under the Merchandise Division is the Laboratory with a personnel of four.³⁶ This laboratory is used primarily to check the quality and standard of all alcoholic beverages which the Board has for sale. It analyzes the wines and spirits; examines confiscated liquors concerning which testimony is to be given in court; analyzes liquor which is sent in by a customer on complaint that such is inferior to what they considered was being sold them; checks wines purchased by retail licensees on direct order of the Board; and regularly and periodically examines the items stocked in the State Stores. This latter work is done regular twice a month. In the three fiscal years which this study encompasses, the Laboratory has tested 5,598 samples divided into five categories; Distillers offerings to the Board for listing, complaint samples, court cases and confiscated samples, regularly stocked items, and wines being offered to retail licensees by wholesale wine distributors.³⁷

35. Report on Audit, Department of Alcoholic Beverage Control, Commonwealth of Virginia, for fiscal year ending June 30, 1935, p. 15.

36. Third annual report of the Va. A.B.C. Board, p. 58.

37. Figures gathered from the first three annual reports of the Va. A.B.C. Board, pages 16, 16, and 16 respectively.

It has been the wishes of the Board to have the wines which are offered for sale in Virginia measure up to the minimum standards of the Federal Alcohol Administration, so that if a wine was labeled "California" it should be equal in quality to the minimum standard of the State of California. In order to accomplish this, the Board issued Administrative Order #1400.³⁸ This was done as there was a feeling that the wine which was being offered for sale was not what it should be. By a very close check during the months of August, September, and October of 1936 the Laboratory found that many brands were not measuring up to specifications. Therefore, the Board issued the Administrative Order just mentioned, stating that, "no wines could be sold after June 15, 1937, without the Board's specific approval of each brand offered".³⁹ This was directed to the manufacturers and wholesale distributors who were selling wines to Virginia Licensees. Since the promulgation of this order the quality of wines offered for sale has improved, so that now the standard of quality is higher than any other state except California.⁴⁰ Chart #4 shows statistically the workings of this Division for the second and third years. All figures for the first year were not available in this form and only those so available are indicated.⁴¹

38. Administrative Order #1400, printed on p. 102 of State Pamphlet containing the 3.2 Beer law, and the A.B.C. Act of Virginia.

39. Third annual report of the Va. A.B.C. Board, p. 16.

40. Ibid.

41. Figures for 1936-37 found in Third annual report Va. A.B.C. Board, p. 16 and 17; for 1935 found in First annual report p. 17 and 18.

Division of Accounts and Stock Control.

This is the accounting and book-keeping agency of the Board, and its work is such as is usually related to this type of work. It also acts as an auditing bureau, and to this Division come daily reports from the several stores on the number of packages sold and the amount of money received. These daily reports are audited and saved, and from them a monthly report is compiled for the Board's scrutiny. These reports cover such items as, the movement of merchandise to the public, the income and expenditures of the State Stores, and other data of interest to the Board.⁴² Its personnel, composed of office and field workers (auditors), totaled 34 as of June 30, 1937.⁴³

Division of Real Estate and Insurance.

The name of this division suggests its chief work which is selecting the physical sites for the stores, obtaining options thereon, preparing leases for the property, and doing all necessary acts in putting the stores in condition for occupancy. It is charged with seeing that sufficient insurance is taken out to cover the physical property. The bonding of all store employees as well as the members of the Board is transacted by this division.

With the system well established, and as it has become

42. First annual report, Va. A.B.C. Board, p. 19.

43. Third annual report, Va. A.B.C. Board, p. 58. See also, frontispiece.

unnecessary to look for store sites, to any great degree, the work of this division decreased. It thus appeared that by June 30, 1936, the division could be eliminated successfully and its work taken over by one of the other divisions of the Board. Consequently we now find that the director of the division has become the supervisor of Real Estate in the Division of Store Supervision.⁴⁴ His work is the same as before but on a modified scale.

Division of Press Relations and Statistics.

The object in creating this Division was two-fold: first, to make possible for the press or anyone interested in the work of the Board to obtain records and acts of this governmental agency; and second, to compile comparative data of the work of the other divisions, to make special studies as the Board may from time to time require, to make comparisons of the operation of similar business in sister states, and to do anything of a statistical nature as may be of value to the Board.⁴⁵

The director of this division is of great aid in relieving the Board members from persons who are only curious as to how the Board functions. Many requests are received by the Board for information of one kind and another. Such requests are turned over to the Director of the Division of

⁴⁴. Second annual report, Va. A.B.C. Board, p. 16.

⁴⁵. First annual report of the Va. A.B.C. Board, p. 19.

Press Relations and Statistics who sees that in so far as the Board is able, the requests are answered. Many of these come from high school classes who are studying State government. Others may come from more advanced students.

It is the desire of the Board to be able to inform the public concerning any action of the Board. It does not wish to follow a policy of having secrets of any sort. Hence the Director of the afore mentioned Division serves as a clearing house for the Board in the dissemination of knowledge.

IV Matters of Business Management

Some of the other policies which the Board as a unit has had to consider are those relating to salaries, the hiring of personnel, providing for promotions, suspensions, and discharging; placing of the stores in cities and towns which wish a store; determining price levels, and all other policies incidental to operating a business which annually has shown over a million dollar profit.

The Board set up a wage scale for store employees based on the sale of units of merchandise. For the other employees of the Control system a set wage for the individual job was established. The scale based on the unit of merchandise sold is computed on a yearly basis for each individual store. (See Schedule A.)

Monthly State Store Salary Scales.⁴⁶

Store Volume in units.		Managers.	Assist. Mgr.	Clerks.
Under	5,000.	\$125.	\$110.	-0-
5,000	to 9,999	135.	120.	\$100.
10,000	" 14,999	145.	130.	115.
15,000	" 19,999	155.	140.	120.
20,000	" 24,999	165.	150.	125.
25,000	" 29,999	175.	160.	125.
30,000	" 39,999	200.	175.	135.
40,000	" and over	225.	200.	135.

From the schedule it will be observed that sufficient leeway is permitted in order to eliminate the possibility of individual store employees trying to create sale volume in order to increase his salary. It will be remembered that all salaries of one thousand dollars per annum or more must receive the approval of the Governor. This acts as a check upon the Board should it wish to favor some employee unduly in the matter of salary. While salaries are only changed at the end of the fiscal year if sales so warrant the changes, these changes are based on twelve monthly check-ups. The Board felt this would be the fair way to attack this problem, for if the salaries were to be based on monthly changes a hardship would be worked on the employees of such stores where sales are seasonable, as for example the store at Virginia Beach. Here a large volume of business is carried on during the months of May, June, July and August only to drop

46. Figures furnished through the courtesy of Mr. A.B. Clarke, director Division of Press Relations and Statistics.

during the rest of the year.

Store shortage and overage has to do with the money taken in by the store manager and clerks and the amount given out in change. All overage, that is all money over and above the amount the cash tickets plus what was originally put in the till in the morning, goes direct to the General Fund of the State as a part of the receipts. On the other hand, shortage refers to the amount of money missing at the end of the day which the sale slips show should be in the till. As each clerk has his own money draw, it is easy to tell who is short or over. An employee who is short does not have the entire amount to make up out of his pocket. This loss is pro-rated by salaries among the store's personnel. This seems fair and in doing this it has the tendency of making the store personnel more alert, individually and collectively, and does not work a hardship on any one employee. Shortages have been kept to a minimum, hardly averaging five dollars per year per store.

The hours during which the stores are open for business vary with their location and the need of the community. The hour for closing varies from 8 to 11 P.M.

The question of employee qualifications must be given some attention. The employees are not under anything which approximates the Federal government's Civil Service. Never-

theless, the prospective employee must fill out an application blank, such as the majority of the State employees are required to do. The successful candidate is then taken into the warehouse where he is given a training course intended to acquaint him with the various brands of stock and their code numbers. When an opening occurs in a store, upon the recommendation of the superintendent of the warehouse, he is assigned to the opening. Where it is possible, a local man is placed in his home town or city store. A personal rating chart is filled out semi-annually by two superior officers so that a fairly accurate check is kept upon each employee. These ratings are done by the superior officers independent of each other so that a better picture of the employee might be gotten. If, for any reason, a person is suspended by the superior officer above him, the employee can carry his appeal to the Board itself, but the decision of the Board is final in the matter. As one of the Board members has charge of the personnel work it is his decision which is final.

When attempting to locate a store within a community, the Board has been guided by several considerations. In the first place if the locality has expressed a wish by its right of local option not to have a store within its bounds, this wish the Board adheres to. If the community is willing for a store to be placed therein, the Board will try, with the aid of Federal officers having to do with bootlegging, the

Board of Inspectors, and State Vehicle Police, and local law enforcement officers to determine the amount of bootlegging within the area surrounding the community. If such an inquiry shows the area to be infested with bootleggers a store will be placed there, other things being equal. However, if a local community wishes a store, and there is no particular amount of bootlegging going on, the Board generally will hold a hearing on the question of establishing a store there. At this hearing will be heard both those who want the store and those who do not, and the reasons both sides have to offer, and at the conclusion the Board will then decide whether it will best serve the interests of the Act to place a store within this community.

When it has been decided to place a store within a community the Board may enlist the services of a local real estate man to point out several possible locations, and if necessary to acquire for the Board such a location. This has been done in several instances for it has been found that if people within a community hear that it is the A.B.C. Board who wishes to rent, the rent is hiked above a fair figure. The Board has felt that it is doing a legitimate business and hence has the right to as good a place of business as any other concern, but not at unreasonable rent prices.

In conclusion it is necessary to mention the work of the Purchasing Agent and the office of the Assistant Attorney-

General. The former has the duty of making purchases for the Board of all its needs excepting the alcoholic beverage stock. Many of his purchases are from other State agencies, as for example the furniture used by the Board is acquired from the State Penitentiary.⁴⁷

The Assistant Attorney-General prepares the regulations which the Board issues. This insures these being worded in legal language. He also acts as the Board's legal interpreter besides aiding in holding hearings on license application and revocation.⁴⁸

V Objectives of Alcohol Control in Virginia

When the Virginia Alcoholic Beverage Control Board was created it considered that, as the State agency which was to handle the sale of alcoholic beverages, it had five major purposes to fulfill. These purposes, which might be called the Board's five cardinal principles of operation, are:

- "1. To supply by legal means, but in no way to create or encourage, a demand for alcoholic beverages on the part of a substantial number of citizens.
2. To eradicate, as far as possible, the bootlegger and to divert from him and allied illegal channels the millions of dollars spent annually for illicit liquor.

47. First Annual Report of the Virginia A.B.C. Board, p. 20.

48. Ibid. p. 20. See also organization chart at beginning of this paper.

3. To encourage respect for law especially in the minds of younger people on whom, there is reason to believe, the sight of open and widespread violation of the prohibition laws was having a subversive effect.
4. To liberalize the retail sale of beer and wines, in contrast to a severely restricted sale of distilled spirits, as a means of controlling excessive consumption of the latter, thus striving towards true temperance.
5. To take profits from the retail sale of distilled spirits out of private hands and place them under the jurisdiction of the State, such profits to go to the support of the central and local government."⁴⁹

The Board has made every effort to follow these objectives in its operation of the liquor system. In order to carry out the first objective, the Board created and was operating seventy-seven stores as of June 30, 1937. It has not permitted undue advertising in the press, and more recently has been gratified to see the doom of billboard advertising. In the operations of the stores employees are not allowed in any way to favor one brand of merchandise over any other. No kind of advertising is permitted in the stores by the use of placques, posters, etc. In this manner it has made possible the purchase of alcoholic beverages but without attempting to stimulate sales by advertising and hence increase consumption.

The State, through the agency of the A.B.C. Board, has issued nearly 5,000. licenses yearly. These are of all types, the majority being retail wine and beer. This is ample proof

⁴⁹. Quoted from First annual report, p. 21.

that the fourth objective is being carried out. The realization of the fifth objective will be better seen in the succeeding chapter.

CHAPTER THREE

Finances

When the General Assembly of Virginia passed the act which established the Virginia Alcoholic Beverage Control Board, it did so with the thought that it was creating an agency of the State which had, as its chief object, the supplying of a social demand. The Legislators were not blind, however, to the obvious fact that they were providing for an agency which could earn money for the State. Into the law then, was written the provision that all profits over and above the sum of one million, six hundred and seventy-five thousand (1,675,000) dollars should be apportioned and distributed to the several counties, towns, and cities of the State. This distribution was to be based upon population as enumerated in the Federal census of 1930.¹ While the Board was established to meet a social need and to supply such need rather than to encourage it, yet the action of the legislature in writing into the law the figures shown above pronounced the fact that the General Assembly was looking for

1. Section 16, of chapter 94 of Acts of the General Assembly of 1934 as amended by Acts of 1936.

the Board to so conduct the business of state liquor sales as to show a yearly profit to that amount. The Board then had to begin operations with this mandate. That it has succeeded will be apparent at the conclusion of this chapter.

To enable the Board to begin operations immediately, the legislature in its session of 1934 appropriated the sum of two hundred and fifty thousand (250,000.) dollars for the purposes of buying supplies of alcoholic beverages, and an additional like sum which the Board was at liberty to use for manufacturing distilled spirits should it appear expedient then to do so.² The Board was able by purchasing in small quantities and because of a rapid turnover, to ignore the use of the money appropriated for this purpose. Neither did the Board use that money set aside for going into the distilling business, for in the opinion of the Board this was not necessary.³

One other item was written into the Act of an obligatory nature upon the Board. This was, that no more than one million (1,000,000) dollars secured from profits, could be set aside as a reserve fund. Furthermore any sum set aside for this purpose must carry the approval of the Governor. This was giving to the chief executive another check upon the Board. His greatest is his power to appoint and remove at will any and all Board members.

2. First annual report, Va. A.B.C. Board, p. 25.

3. Section 16, Acts of 1934 as amended 1936, chapter 94.

The first Board took office fully aware of the restrictions placed upon it and quite conscious of the mandatory provisions of the Act. They were somewhat dubious as to whether or not it would be possible to make the necessary profit in the first year's operation. It was quite true that they did not have to use any of the monies appropriated by the General Assembly in order to create a \$13,000,000.00 a-year business with an initial organization expense of only \$16,000.00. Nevertheless the Board had no statistical data of any kind to show what the revenue per capita might be. In the opinion of the members of the Board, they felt it might reach five dollars per year. Furthermore they doubted the ability of the agency to set the machinery going in such a way that the desired profit would be forthcoming.

At the end of the first full year of operation, the Board found that, not only had the required profit been made, but a good deal more besides. Thus the profit of \$3,390,723.07 represented the Board's first efforts. This figure represents 26.315% of the total amount of the business of that year.⁴ Table #5.⁵ shows in detail the revenue and expenditure for this initial year. To this table is appended the amount of profit which the Board earned in the fifty days from

4. First annual report, Va. A.B.C. Board, p. 26.

5. See appendix.

March 22, to June 30, 1934 Sundays and Holidays included. Later will be included a comparative statement for the four fiscal periods in which the Board was functioning. This will show the financial gains which the Board has made in running the State store monopoly system of liquor sales.

While Virginia was struggling to get her State Store system going, other States were doing the same thing. All the States in the Union did not adopt the State-store monopoly system but fifteen had done so by 1936. This makes possible a comparison of their financial results with that of Virginia. In table #6⁶ is indicated a composite of several of these monopoly states showing administrative costs and net profits realized from this type of handling the liquor problem. Particular attention should be drawn to Virginia's position as it compares with that of the States shown. It is perceived that she ranks fifth in population, and fifth in expense of administration and operation of her liquor system. It costs Virginia .47 cents per capita a year to operate her system. This is not a great cost per capita but in comparison with the other states it places her in sixth place. This is reflected in the fact that she ranks fourth in net profits, and eighth in net profit per capita. Of the eleven states shown in table #6 Virginia reaps less profit per person than do

6. Ibid.

seven of the others. The reason for this may in part be due to the fact that she is willing to take less profit in order to keep her prices down and better discourage the sale of illicit liquors.

Notice should also be directed to the states showing the largest and smallest profits, Pennsylvania and Vermont. Population enters into this greatly as these two states respectively are the ones having the most and the least population. We will use these two states as a basis for comparison with Virginia's financial management of the monopoly control system. The profit and loss statements of the two states will be presented as well as a comparative profit and loss statement for Virginia which will cover the four fiscal years of operation which this study covers. Table #7 and 8⁷ provide a contrast with table #6. The table showing the profit and loss statement for the Pennsylvania Liquor Control System is in more detail than the one for Vermont. However a fairly complete picture can be gained from a study of each. The outstanding feature gathered from these profit and loss statements in comparison with table #5 showing Virginia's position at the end of the first years operations is that the Virginia A.B.C. Board in all likelihood uses better business practices. For instance the first year's administrative costs in Pennsylvania were 86.5% of the total sales; in Vermont the cost was 80%, while Virginia, on the other hand, the cost of adminis-

7. Ibid.

tration was only 73% of the total sales.

Population differences between Virginia, Pennsylvania and Vermont should not account for the decided differences in administrative costs. Whatever was the reason, the fact remains that in comparison with these two States, Virginia fared decidedly better.

Table #9⁸ shows the revenues, expenses and profits in the fifteen states which adopted the State-store monopoly system. This table reveals that Virginia ranks well among these monopoly states. Only three states, West Virginia, Ohio and Montana, can show a lower percentage of cost of goods to total income. And this fades when it is realized that the variance is only 1.5%. Comparing Virginia with Wyoming, the State having the highest percentage in cost of goods sold to total income, we find that here the variance is 18.1%. In low operating costs, both Virginia and Ohio are in fourth place. The ability of the Board to keep operating costs down, coupled with a well defined purchasing procedure which sees to the taking of every discount offered, helps to explain why Virginia ranks second in percent of net profit to income, being surpassed only by Ohio. Table #10⁹ is included as a supplement to table #9. It is more in detail than table #9, but the results show again that Virginia compares most favorably

8. Ibid.

9. Ibid.

with the other monopoly States.

Table #11 shows the items of wine, beer and spirits as producers of revenue due to license fees and taxes. It will be noticed that Virginia shows only revenue from taxes on beer, whereas some states as Pennsylvania receives taxes on liquor as well. That is due because Pennsylvania permits the sale of liquor for on-premise consumption at regular licensed establishments. Originally the A.B.C. Board was not permitted to allow wine to be sold for on-premise consumption, but the Act as amended now permits this in regularly licensed places. Should the legislature of the Commonwealth see fit to permit liquor to be sold for on-premise consumption the revenue which the state might receive would tend to increase profits. But this is debatable and will not be considered.

From the various tables included it will be seen that in the first year of the operation of the Board, the A.B.C. system worked very successfully when held up to the light of comparison with other states. And in as much as the profits accruing to the Board have increased each year, it is well to conclude that financially the Board has been a success.

In the years which have followed, a substantial profit has been made so that the required amount which was written into the law has always been achieved and a considerable

amount more. Comparative balance sheets and statements of profit and loss for the four years are embodied in tables 12 and 13. By surveying these it is seen that the Board has been operating a business which might well compare to many private businesses. In table 12 it is pointed out that each fiscal year has seen an increase in sales, and this without high-pressure advertising or salesmanship. The large increase in costs of goods sold has been due in part to the opening of new stores, particularly from June 1934 to June 1935. To this must be added the fact that the system was only in operation for a small portion of the fiscal year ending June 30, 1934. The same may be said of nearly every item in that period. It is better to examine the full three years which the Board did business to get a true picture of its financial workings. In studying the figures of these latter three years it is apparent that the State has created a big business conducted as a regular government department. This could be used by the exponents of public corporation as an argument that the Department should be changed to a government corporation. However the big difference here is that the agency was established not primarily to make a profit, whereas this is usually the case with a private concern. The question of a government-owned corporation as compared to a governmental department as a method of running a business is discussed at length in chapter four.

With regards to the profits which have come from the operation of the Control System by the Board, for the fiscal years under consideration, there has gone to the cities, towns and counties of Virginia as provided by the Act, a total of \$3,921,560.27 distributed in this manner; \$2,564,611.04 to the hundred counties, \$1,206,558.75 to the twenty-four cities, and \$350,388.48 to the one hundred and fifty-six towns. The profit represented by these figures came after the \$1,675,000. was deducted and turned over to the State as required by the Act. It is true, therefore, that the Board has been a financial success.

The following figures show the amount of consumption that has made such profits possible.¹⁰

year	gallons	estimated retail value	per capita expenditure
1935	9,848,636	\$21,842,398.94	9.02
1936	12,145,144	26,159,515.74	10.80
1937	16,976,113	34,876,528.00	14.40

The per capita expenditure for 1914 was \$19.28.¹¹ The noticeable factor is that during the Board's operation of the system, per capita expenditure was decidedly below that for the nation at large in pre-prohibition days. This leads us to observe that the Board is not trying to increase consumption to increase profits, and in so doing is following one of the

10. Figures compiled from the first three annual reports of the Virginia A.B.C. Board.

11. First annual report, Va. A.B.C. Board. p. 40.

five cardinal objectives.

We must now turn for a survey of the operating costs and discover whether they represent a fair relation to the amount of revenue which is being produced. Referring to table #13,¹² we find that for the short period during which the Board was in operation in the fiscal year ending June 30, 1934, the sum of \$584,867.52 representing 75.256% of the total revenue was the cost and expense for that brief time. The following year the costs and expenses amounted to \$9,448,979.34 which was 73.649% of total revenue. In 1936 the figure had increased to \$9,982,816.90 which was 73.562%, while in the last fiscal period expenses had jumped to \$12,303,140.50 but the percentage dropped to 72.621%. This must be interpreted that each year has seen the cost and expense of operation decrease in spite of an increasing volume of business. It is then logical to infer that the percentage of profit has increased. For the periods the percentages of profits ran something like this; 1934 it was 24.744%, 1935 an increase to 26.351%. In 1936 another increase to 26.438% and lastly in 1937 to 27.379%.¹³

As might be inferred the largest single expense in the carrying on of the business was in the cost of goods sold. This would have been much higher if the Board had not availed

12. See appendix.

13. All figures compiled from the first three annual reports of the Va. A.B.C. Board.

itself of the discounts offered for prompt payment of invoices. The next largest item of expense was store operation and maintenance. This expense reached its peak in 1937 when 4% of the total revenue was spent in keeping these stores running. The warehouse is next in cost but as yet has not reached 2% of the total revenue.

The greatest source of revenue is net sales, followed by the savings resulting from cash and quantity discounts. During the first fiscal period this amounted to 2.983%. In the three succeeding years this source of revenue has not reached 2% of the total amount received.

The other items of revenue, and costs and expenses shown in table #13 are self-explanatory. Only in the case of General Office expenses, and Inspection and Enforcement expenses have these individual items amounted to more than 1% of the total revenue. In the case of the former the percentages for the four fiscal periods has run thus; 1934, 5.307%; 1935, 1.596%; 1936, 1.66%; 1937, 1.413. The large percentage in the initial period is seen readily as it was then that many expenses incidental to getting started, were incurred which would not have to be considered in the following periods.

In summary then it appears that the Board has administered the alcoholic beverage dispensation system efficiently and economically and in the best approved business methods as its financial position will attest. The Board has not tried to

make an excessive profit for this would defeat its purpose. During the fiscal year of 1935-36 it reduced the mark-up on wines in an effort to make them more accessible to the consumer and if possible to reduce consumption of hard liquor. By operating a central warehouse the Board has sought not only to maintain a better control on incoming merchandise and the supplying of the individual State Stores, but also to provide for a more economical handling of the merchandise. Salaries have not been too low so that an inferior type of employee would get on the payroll, but neither have the salaries been excessively high so as to add unreasonably to the costs of operation. The conclusion which I draw is that the Virginia Alcoholic Beverage Control Board has operated financially the State Store system so that no fault can be found on this score, and that the Board has conducted the business on a basis comparable to a private concern doing the same volume of business.

CHAPTER FOUR

The Board as an Instrument of Government

The Virginia Alcoholic Beverage Control Board became a reality with the passage of the Act of 1934, section 3 paragraph (a) specifically stating that, "There is hereby created as a department of the Commonwealth of Virginia the Department of Alcoholic Beverage Control. The said department shall consist of the Virginia Alcoholic Beverage Control Board and the officers, agents and employees of the Board."¹ Thus is the Board given its legal status. In creating a multi-membered board the General Assembly was following a frequent practice, that is, of having an administrative department headed by a board.

The functions of the Board have been enumerated elsewhere. This will not be repeated in detail, but only such powers, we will say, were given the Board in order to carry out the purposes of the Act. It is apropos however to note that the Act did give the Board quasi-legislative functions. These are best exemplified by the Administrative Orders passed

1. Acts of the General Assembly of 1934, as amended by Acts of 1936; chapter 94, p. 18, section 3. Division of Purchase and Printing, 1936.

by the Board which carry the weight of law.² The Board operates quasi-judicially in the holding of hearings, issuing subpoenas, and requiring the attendance of witnesses.³

The Act of the General Assembly of 1934 set in motion the State monopoly liquor dispensation system. In order that the broad general principles of the law would be carried out, the legislature delegated the actual running of the system to an administrative agency. This was not a new procedure in Virginia, any more than it is in any type of American government, federal, state or local.

The power so delegated to the A.B.C. Board cannot be used with utter disregard of the Governor or the General Assembly. In other words, the Act includes certain controls over the Board. Thus it is written that the Board must submit an annual report to the Governor within forty days following the end of each fiscal period and in addition it must furnish him such reports on any phase of its activities as he, from time to time, may require.⁴ The annual report to the Chief Executive must contain certain information demanded in the Act. Just what details must be dealt with in this report are set forth in section seven of the Act.

"The books and records of the Board shall at all times be subject to examination and audit by the Auditor of Public

2. Ibid. Section 4, (j), p. 20 and section 5 (a).

3. Ibid.

4. Ibid. Section 7, (a), p. 21.

Accounts, and by such other persons as the Governor may authorize.⁵ By thus subjecting the Board to examination by the State Auditor control over it is again established. Not only may he audit the books and records of the Board but he is also charged with installing an accounting system which will be similar to those used by the other state agencies. This will insure a uniform system of accounting among the several divisions

Several other checks on the Board are found in the Act in sections 12, 15, 16, 17, and 18.⁶ Section 12 has to do with store hours, 15 with accounts which are to be made and submitted quarterly to the Governor. Section 16 is important in that it is the one which places upon the Board the necessity of showing a yearly profit of \$1,675,000.00. This in itself is not exactly a check, but the remainder of the section deals with the amount which, with the Governor's permission, may be set aside as surplus. It also provides for the distribution of excess profits to the local governmental areas. Section 17 makes provision for the depositing of all moneys received by the Board. This money must be paid into the State Treasury, or deposited to the credit of the State Treasurer in a State depository. All salaries, amounts for running the system other than salaries, etc., have to be drawn from the State Treasurer upon the appropriate voucher form, and these

5. Ibid. Section 7, (c), p. 22.

6. Ibid.

must receive the approval of the Governor, with whom the Comptroller, Treasurer, and Auditor of Public Accounts shall concur. In this way is kept a very close supervision on the money which the Alcoholic Beverage Control Board handles. The final section mentioned, 18, has to do with the type of licenses (enumerated elsewhere) that the Board is permitted to issue. In this respect the Board was not allowed to determine for itself the types of licenses to issue.

In spite of the numerous things in which the Board has no choice of procedure, it nevertheless has wide discretionary powers in the operation of the Liquor Control System. At the close of the fiscal year ending June 30, 1937 the A.B.C. Board had issued 2338 administrative orders, approximately 50 carrying the force of law.⁷ This was done in pursuance of the power given the Board by section 5, paragraph (a) of the Act. These Orders must be published at least once in some Richmond newspaper, and in any other manner that the Board may determine. This is not the best arrangement, for should the Board decide to refrain from publishing orders except in Richmond, it would be possible for citizens in other parts of the State not subscribing to the Richmond paper to be inconvenienced. When one is ignorant because of limited advertising of the law, it is not fair to hold him responsible for an order carrying the force of law. The Board however now

7. Figures compiled from the first three annual reports of the Va. A.B.C. Board.

sends mimeograph copies to licensees. Incidentally the orders do not have to be uniform in their application, and by this is provided a means for discretion by the Board. This is believed to lead to a better carrying out of the spirit of the Act. As long as politics does not enter, such use of discretion is justifiable; this is of significance for when an order works a hardship upon a citizen, it is to the body which issued the order that he must go for relief.

To most students of government a system of administrative control where the governmental agency exercises both quasi-legislative and quasi-judicial functions with no chance of appeal, is not the best. For one thing it involves the breaking down of the much-honored idea of the Separation of Powers. Furthermore it is no guarantee that justice will be done. Therefore it seems that this particular phase of the Board's work should be modified. Concerning the question, Pfiffner says that, "This use of a board for quasi-judicial and quasi-legislative matters, administration remain-within the hierarchy, is legitimate and frequently desirable".⁸

This is a worthy observation, but when it leads to working hardships upon certain of the citizenry, as it may, then we feel it is not in the best interest of all for a Board to be acting as a legislative body at one minute, and then at the next to be sitting in judgment of the laws which they have passed.

8. J. M. Pfiffner, op. cit.

In the same period in which the Board had promulgated 2338 administrative orders, it also held some 2735 hearings of a quasi-judicial nature. These were mostly on applications and revocations. The question as to whether or not the interests of the State are best served with the Board acting quasi-legislatively and judicially while at the same time being primarily an administrative agency of the state is the important one. It is the view of the writer that the Board is well serving Virginia's interest as concerns liquor control.

Section 6 of the Act deals with the civil liabilities of the Board members. No member of the Board may be sued civilly for doing or omitting to any act in the performance of his duties which are set forth in the Liquor Control Act. The exception to this provision permits the Commonwealth to bring suit against any member, but the suit must be brought in the circuit court of the city of Richmond, and the Attorney-General of the State must start the suit and conduct the same. This provision of the Act is no doubt intended to provide immunity from civil persecution as is enjoyed by members of the legislature.

Protection is given to wholesale merchants and others with whom the Board from time to time may enter into contract. This protection is found in paragraph (b) of section 6 and provides that the Board in the name of the Commonwealth of Virginia may have suit entered against them in the circuit

court in the city of Richmond to enforce such contracts or recover damages from the breach thereof. Such suits cannot be entered against or in the name of the individual members of the Board.⁹

In this respect the law gives the Board powers similar to a corporation. This raises the question of whether a government corporation would not be a better agency for handling liquor control. Government corporations are not new. The Federal government has been operating them for some time. The first one this government created was the Inland Waterways Corporation. It has been relatively successful. Perhaps one of the largest, and from a functional view, the most important, is the Panama Canal Corporation. Dimock treats of it at some length in his book.¹⁰ In this work he points out the way this corporation operates, and that quite successfully.

What is a government corporation? Dimock well answers this by saying that, "A public corporation is an autonomous organization with a legal status separate and distinct from the government which creates and owns it".¹¹ Therefore the public corporation is similar to the private corporation in all its corporate structure, the only difference being in the former case it is owned and operated by the government by means of persons who are agents of the government, where-

9. Section 6, paragraph (b) of the Act of 1934, p. 21.

10. Dimock, "Government-Operated Enterprises in the Panama Canal Zone". University of Chicago Press, p. 202.

11. Ibid. p. 209.

as the latter is owned and operated by private persons acting as agents for the stock-holders. There may be stock-holders in the government corporation but they hold the shares in trust for the government.

Are there any advantages of a government corporation, and would these advantages overshadow the usual type of governmental agencies? Dimock says that the advantages are, "to be found in the ease and independence with which the undertakings' financial affairs and purchasing operations can be conducted. The ability to raise funds, the right to expand the business, the necessity of earning money before it can be spent, the assurance that income depends upon economic factors rather than upon the benevolence of the legislature, the right to borrow money on the corporation's credit, the freedom to build up reserves for the replacement of plant and the expansion of the business, the knowledge that accounts can be kept on a business basis and audited in conformity with commercial practice, and the desire to run the business as efficiently as possible because the enterprise will be judged on its financial showing - these are some of the respects in which the public corporation excels on the financial side in contrast with the government department". This is well enough if the chief function of the A.B.C. Board was that of producing revenue for the State. But this function of the Board is its least important one, in theory at

least. Another authority points out that, "It is claimed for the government-owned corporation that it facilitates the solution of the financial and business problems of such an agency and that it does not increase the difficulties of responsibility and control".¹² Another advantage which is advanced for this type of government agency is that, "Greater freedom in purchasing operations" ¹³ results.

Everything which has been mentioned so far tends to show that government corporations will assist toward the financial success of the governmental agency so operating. If we accept this as being true, the question which comes then to mind is whether or not the Commonwealth of Virginia wishes to make the financial aspect of its experiment in state control of liquor dispensing the paramount issue or not. We have shown before that financial success was not the most important principles incorporated in the act establishing the Control Board. Therefore to advocate changing the A.B.C. Board from a Department of the State into a public corporation to carry on the same work, it would be necessary to show other advantages accruing therefrom.

In every corporation what it is permitted to do, and what is denied to it, is written into the charter or is reasonably therein implied. It might then be possible that,

12. Ibid. p. 194. Quotation from "Government Owned Corporation" by Harold A. Van Dorn.

13. Dimock, op. cit. p. 119.

assuming the A.B.C. Board to be incorporated, the same kind of difficulties which confronted the Federal Inland Waterways Corporation might be encountered. With the latter, one outstanding event happened which proved that a public corporation may sometimes be needlessly checked by red tape. Under the charter of this organization it was given such rights as would permit it to best serve the nation by its operation of shipping service on the navigable rivers of the U. S. As a means to improve its work it wished to build a dock along the river bank in a certain Ohio town. The money was available, but the charter did not expressly give the Corporation this right. Therefore the Comptroller-General refused to permit the spending of the money for this purpose. Valuable time was lost and in the end the wishes of the corporation were fulfilled by its loaning the money to the municipality to build the dock.¹⁴ The important thing to see is that under the present Act the Board has all the powers it needs and to incorporate it might lead to a similar situation occurring. Even though no similar event should take place, once incorporated its powers are necessarily limited by its charter, and it is easier to amend an act than a charter.

Usually a corporation has the right to retain a surplus for improvements, expansions, etc. In a private corporation this is necessary and just. It may work out satisfactorily in

¹⁴. For complete details see Van Dorn, op. cit.

a public corporation. Consider the type of work the A.B.C. Board is engaged in. It does not seem likely that the Board will ever need to store up a large surplus. At the present time it is permitted by the Act to lay aside a certain amount without special permission from the legislature. When the comparatively small amount needed to open up a new store is considered, or the reserve for depreciation of furniture and fixtures, or the fact the merchandise does not deteriorate over a period of time, it is hard to understand why a large surplus would be necessary. Yet if incorporated one of the powers that would accrue would be this of setting aside a surplus. Some future directors of the corporation might embark upon creating a large surplus which would mean idle funds. While this is only a possibility, it is worth mentioning, as one of the features which both Dimock and Van Dorn point out is the advantage of creating a surplus. For some types of governmental agencies this is very desirable, but I think not for a liquor control agency.

A last survey as to the possibility of the control board becoming a corporation is the thought, that due to the social aspect of the Board's work, would this be as adequately cared for should the Board become a public corporation? We might concede that a public corporation would give as much consideration to the social nature of the work as the Board has done. It is interesting to note that, "The Vir-

ginia board of control stands almost alone in showing special interest in evaluating the monopoly system in terms of its effect on consumption of liquor and observance of law".¹⁵ Therefore if Virginia is the only one of the fifteen states employing the monopoly system that has given any consideration to the social side, it might not be going too far to say that if the State was operating its liquor control system by means of a government-corporation the Manager and Directors could be more interested in the financial statements than a table of consumption. We say this for the employees under the corporation system would realize that their salaries would be more dependent upon a good financial showing than is now the case. And where salaries are dependent upon earning capacity, more stress is going to be put upon sales.

After a cursory view of the advantages and disadvantages of a public corporation as versus the Department agency, it is our opinion that the Law will be better carried out and the principles more closely adhered to, if the Board continues to operate as a Department of the State. Since it is the writer's opinion that the Board is doing a good job as a department, he would not like to see a change made that opens possibilities which may or may not be conducive to carrying on the good work that so far it has been Virginia's privilege to have.

15. Harrison and Laine, op. cit. p. 146.

CHAPTER FIVE

The Board and the Social Aspect of Liquor Control

It was pointed out in the beginning of this treatise that the problem of handling liquor was not new to the Commonwealth of Virginia. Indeed laws regarding the control of the sale of this kind of merchandise were passed before Virginia could lay claim to statehood. Thus it was not a new problem which was thrust upon the State with the repeal of the Eighteenth Amendment to the Federal Constitution.

During the period of time in which the Eighteenth Amendment was the law of the land, with the attendant Volstead Act, the sale of bootleg liquor continued within the State at an alarming rate. This was not only in the amount of illegal liquor sold, but also the number of young people it was corrupting in the sense of instilling within them an utter disregard for the sanctity of law. The young people were not the only patrons of the bootlegger. Their elders likewise were enjoying this nefarious traffic. It was the youth, however, to whom Virginia had to look for the future guidance of the State. Therefore the disregarding of the law, and the winking at the bootlegger and his activity as well as aiding

him, was leading these people into ways of thinking which would be unhealthy for the future of the State. Had Prohibition continued and this same lack of respect and indifference to law continued, it is safe to surmise that lawlessness within the State would have increased.

In the very beginning of its existence the A.B.C. Board considered its duty was to make available, spirits in such quantities and at such prices, as to successfully combat the bootlegger and his illicit merchandise, and to launch a campaign to build respect for law and order within the State as it pertained to alcoholic beverages. That the Board has been totally successful would be stating an untruth. Even in their wildest hopes the members of the Board did not entertain the idea of complete extinction of this menace within the first years of operation. They realized that what had taken seventeen years to build up could not be destroyed over night.¹ On the other hand it is above question but that they have been successful during the years the system has been running. Bootlegging still continues in the State, but on no scale commensurate to the prohibition days.

What efforts of the Board have resulted in a decrease of bootlegging within Virginia? First of all the Board made an effort to establish stores in those localities where boot-

1. First annual report of the Va. A.B.C. Board, p. 21.

legging was known to be greatest. Next by offering for sale liquor in as small a quantity as a pint, thus putting it within reach of everyone who desired alcoholic beverages. To the size of the sale must be added the additional factor, the price. Because of a fair mark-up on stock and the taking advantage of discounts for prompt payment, the Board has been able to offer for sale whiskey as low as sixty-five cents a pint and gin at fifty cents a pint.² Due to this the Board has been in a position to have for sale legal spirits, chemically pure, at a price which the bootlegger could not successfully compete and make the profit he formerly enjoyed. This was one of the Board's greatest weapons in combating this menace to society.

The other major weapon used by the Board was its right of issuing licenses to establishments. Here, in a legally established business house, buyers could purchase beer and wine. This was found to be quite effective. By issuing a license to a licensee of questionable character, the Board was better able to control his activities than if they had refused him a license.

The two economic methods of warfare against the bootlegger were aided by the establishment of the enforcement forces of the Board, aided and abetted by local officers.

2. Ibid, p. 22.

In the first year of its history, these enforcement agents did not have police powers and were at a disadvantage. In the legislative session of 1936, the General Assembly corrected this.

In the first year the Board learned that the bootlegger existed and did his greatest business in those areas not served adequately by a State store. In some sections there was no store within a radius of ten miles. In an effort to serve this area was instituted the mail order department. This was found to be of little value for it was found that where buyers lived ten miles from a store, they were just as likely to live that far from the express office. The suggestion has been made that the Board open up a delivery system to care for those living so far from a store, but the Board has not yet acted on it.

While it is known that the largest bootlegging rings of prohibition days have been exterminated, there still remains the practice of bootlegging today. Most of the present bootlegging is in the form of selling legal liquor during periods when the State stores are closed, especially on Sunday and holidays. In the rural sections of the State, and particularly the mountainous southwest is carried on the making of "moonshine" liquor. It is believed by the Board members that with a stricter enforcement of the law by local enforcement officers, which in some communities is woefully

weak, and augmented by its own enforcement officers and the Federal officers as cases come under their jurisdiction, that the end of the bootlegger is not in the too dim distant future.

Early in its history the Board had printed ten thousand copies of an article called, "The Use and Abuse of Alcoholic Beverages" to be distributed from the stores. This pamphlet was an attempt to urge upon the consumer of alcoholic beverages temperateness in his drinking. In this the Board pointed out that, "The problems involved in the practice of moderation and temperance are age-old and extremely difficult of solutionupon those citizens who desire the privilege of purchasing alcoholic beverages in a legal manner rests to a large degree, the responsibility of preventing abuses of this privilege..... By using temperance and moderation as watchwords and intelligently analyzing changing social conditions, Virginians may yet perfect a solution of the problem with which we are this time endeavoring to cope".³ In thus presenting their views we again see one of the five cardinal principles under which the Board tries to operate.

In the first fiscal year Virginians consumed a total of 9,648,636 gallons of alcoholic beverages. This represented an estimated retail value of \$21,842,398.94, and a per capita

3. "The Use and Abuse of Alcoholic Beverages." A pamphlet published by the Va. A.B.C. Board, p. 3 and 4.

consumption of 3.98 gallons of average cost of \$9.02. This is not alarming when compared with figures representing the nation as a whole in pre-prohibition days. Thus previous to prohibition the per capita consumption for the nation at large was 22.66 gallons at an average cost of \$19.28. The figures are for 1914. For the second year the per capita consumption was 5.01 gallons at an average cost of \$10.80. During 1936-37 the consumption increased to 7.01 gallons and \$14.40 was the amount spent.⁴ While it has been the experience of the Board to watch an increase in per capita consumption and expenditure, the fact remains that the State is far behind the average spent by the United States for alcoholic beverages prior to prohibition.

In explanation of the figures given it must be said that the increases in the first three years of the Board's existence was due in part to the increasing flow of money following the easing of the Depression days of 1929,30,31,32. Moreover now that the nation has been suffering a recession in business we are certain this will be reflected in the volume of business done during the fiscal year 1937-38. Will Virginia under the State control plan reach the average for consumption which prevailed during 1914 in the U.S. is a question that time alone can answer. It is our guess that

4. Figures compiled from the Second and Third annual reports of the Va. A.B.C. Board. pages 41 and 44 respectively.

as long as the Board continues its policy of prohibiting high-pressure salesmanship and refrains from advertising, Virginia will not reach the average set in 1914.

In terms of the social side of liquor consumption, it is our belief that there is a peak in the amount of consumption and expenditure. We believe that this peak was nearly reached during 1936-37. It is hard to conceive that the drinking public of Virginia will go beyond the general average of the nation as of 1914. This is based upon the fact that today nearly 28% of Virginia is dry in sentiment. And as long as the present or some future Board abides by the five cardinal principles as before mentioned, it may be predicted that the future will not produce a greater average consumption than was attained in 1936-37.

We must include a word about public drunkenness at this point. Has there been an increase in this pitiful sight since the establishment of the A.B.C. Board? Obviously it would not be a fair comparison to examine Virginia during prohibition and the present time. In the second and third annual reports of the Board are listed tables showing the number of arrests for intoxication for those two fiscal years. Figures shown in the reports of the Bureau of Prohibition during the era when it was illegal to make or purchase liquor tend to support the contention of the Board. Previous to the time the State had its own dry law which anti-dated Prohibition the

results are similar. That is, public drunkenness has not tended to increase with the State store system of selling legal liquor. The fact the liquor is now easier to get has been offset by the increases in fines and terms of sentences given to individuals by the trial justices.⁵ Where heretofore a common drunk may have gotten off with a small sentence or fine, with the tendency to increase the same, the number of people being arrested now for this tends to be about the same, numerically.

It must be concluded that by the establishment of the Alcoholic Beverage Control Board, and its subsequent handling of the ticklish question, bootlegging in the State has decreased. That there will come a time when it will cease to exist entirely is a matter involving human nature, too controversial to now attempt to answer. There will come a time when bootlegging will be very largely confined to the small back-woods farmer and mountaineer. Even this will be kept to a minimum by good enforcement laws and officers. As long as people are what they are, just so long will Virginia be confronted with questions which the consumption of alcohol is beset with.

5. First annual report of the Va. A.B.C. Board, p. 23.

CHAPTER SIX

Summary

We have now arrived at the conclusion of our examination of the administration of the Virginia Alcoholic Beverage Control Board. In studying the workings of the Board, certain methods of doing things, certain policies which are followed, have stood out. It will be the purpose of this chapter to point these out and to suggest whether or not they might be improved.

The first topic to be dealt with is that of personnel. Under the system which the Board has adopted, applicants for positions follow the usual procedure which the State has utilized in selecting all its employees who hold non-political officers. I believe in this plan as it applies to those citizens who wish to seek work with the Board in positions that are not out-right political rewards. We would like to see the various non-political jobs filled by a merit system of selection using tests similar to those used by the Federal Civil Service. This we feel would tend to attract the best people for the positions. Security of tenure should be assured. It is certain that in positions not concerned with

policy the best results are attained by satisfied personnel, which is true of the greatest majority of workers. One way of having satisfied workers is to have them realize that their tenure of employment is not dependent upon the way the political wind blows.

The installing of some such system as the Civil Service, should not be done at the expense of creating an organization of workers indifferent to the best interests of the Board for which they work. The workers should be made to realize that once having gotten employment under this system they cannot sit down and expect some one more conscientious to do their work. The system adopted should be flexible enough to provide a method of getting rid of undesirable workers.

Whether or not such a system in the future may be adopted, I feel that a slight improvement checking the type of work done by the individual could be gained. As the Board now functions each employee is subjected to a bi-annual personnel rating check-up. While this is not inadequate, I think that if the Probst method were to be used a better rating picture could be obtained. This could be installed at little expense, and thus instead of having an employee's rating depend upon the judgment of two superiors, it would be that of three and personal differences would tend to be fused into a more perfect picture of the employee.¹ Furthermore

1. See J. M. Pfiffner, op. cit. chapter 2, part 2, for a good explanation of this system.

the Probst method tries to evaluate as many characteristics of the employee as possible. I cannot say that the present method used by the Board does not bring out some of the facts. But I believe a decided advantage is gotten from three person's observations than two.

I believe that the employees who head the various Divisions of the Board should be outside of a civil service system. They are the ones most closely connected with the members of the Board, and in no small way aid in forming Board policies and procedures. While the Board may or may not take suggestions from these division heads, yet these same heads are closer to the actual workings of their own divisions and see the problems of their divisions as early, and often earlier than the Board. Therefore it is natural to suppose that they may have suggestions as to how to meet these problems as they arise. They give their ideas as to what should be done to the Board, while it has the ultimate say in all decisions on matters of policy and procedure. However these heads would not be in their respective positions if they did not have the confidence of the Board.

We strongly feel that as these various divisions heads are so closely tied up with the Board on matters of policy, that they should hold office only as long as the Board wishes. We do not feel that they should have permanent tenure. To do so might seriously embarrass some future

Board. Since we believe that they should hold office at the pleasure of the Board, we feel that their salaries should be large enough to attract men of recognized ability who are willing to hold a political job.

After considering personnel, let us turn to that of salaries. It is my opinion that a fair method of determining salaries has been adopted. This method should not be changed by some future Board unless a superior method can be discovered. It seems obvious to the writer that a clerk in a store handling twice the volume of business as the clerk in another store should not be working for the same salary. Nor should the manager of a store doing twice or three times the annual volume of business be expected to work for the same amount as a manager of a store which is half or a third the size. With added responsibility should go added salary returns. It appears that the salary system needs no further adjusting. It is fair and appears that to change it in any way would be to destroy a well developed system.

As concerns those who are not under the salary scale of store employees it seems to me that these persons receive a fair fixed salary. This is the way the present Board has arranged this item. Insofar as is possible these salaries should be of equal amount for persons doing the same or similar work, and thus the heads of the various divisions would be paid the same, the members of the enforcement force would be paid the

amount, members of the inspection division equal salaries, etc. This will insure a more satisfied and harmonious working personnel.

Finally we believe that the salaries of the Board² members are in fair proportion to the responsibility of their positions, and their salaries are well above many of the States which use the monopoly system of liquor control. When we consider that they collectively, and individually are responsible for operating a business of more than a million dollars a year, the salary scale is not out of line with the character of the work. There might be advantage in increased salaries for members of the Liquor Control Board. In no case should these salaries be lowered. Let it be remembered that the total administrative expense does not exceed 3%³ of the total expense of running the control system.

As a final consideration of the financial side of the work of the Board, it is to be commended for its low operating cost. In comparison with other States using the same system, we saw in Chapter Three how under the management of the A.B.C. Board, Virginia ranked well ahead of most of the other States in operating costs. This speaks well for the business acumen of the Board, and it is to be hoped that subsequent Boards will be able to do as well.

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2. Harrison and Laine, op. cit. for analysis with other states on this question read their chapter on Finances.
 3. Report on Audit, Department of Alcoholic Beverage Control for fiscal year ending June 30, 1937, p. 8.

In Chapter Four we considered at some length the possibilities of changing the Board from a Department of the State Government, to a government-owned corporation to carry on the same work. In considering this possibility we came to the conclusion that no advantages would accrue to the change which would not work to off-set the cardinal principles upon which the Control Act was based. It is to be admitted that in a multi-membered Board there are bound to be differences of opinion, and it may well follow that a strong personality may rule. But this does not differ greatly from the way the manager of a Public Corporation runs the business subject to the Board of Directors. Consequently we cannot find that a public corporation would operate to a better degree in the interests of the State, as long as finances are not the main consideration of the State Agency.

This leads me to say that it is my opinion that the Board serves Virginia best in controlling the liquor system. Some future Board may so run the A.B.C. system as to make a change worth while, but since we cannot predict the events of the future, we believe in letting good enough alone.

It is to the Board's credit to point out the admirable division of labor between the three members, and the continuation of this as an established policy. By this division there is minimized the duplication of effort and waste. Board members keep to their own field and only meet to discuss gen-

eral policies, and besides makes possible that the member in charge of personnel has complete control of this aspect and he is not bothered concerning details by the other two, who are concerned with their own immediate problems. Up to now this has worked admirably. Whether it will continue will be determined by the personalities of some future Board members.

One suggestion which I feel worth mentioning concerns the types of licenses which the Board may grant. It does not seem quite consistent that ardent spirits may be sold by the package for off-premises consumption, and that hotels, restaurants, etc., are denied the right to serve spirits in their dining halls. If a person can go into a State Store and buy a gallon of liquor and go outside and drink it, I do not see the justification of prohibiting the selling of liquor in these different establishments by the drink. I feel this especially in view of the fact that a person may buy wines and beers at these places which if taken in sufficient quantities will produce intoxication just as well as the equivalent alcohol in spirits. The only difference in this to me, is in the amount necessary to produce intoxication. Therefore it would seem more logical to permit the Board to issue the necessary licenses to hotels, restaurants, dining cars, etc., or deny to these places the right to sell any intoxicating drinks. This would necessitate the State Stores selling beer.

It seems that it is a very excellent arrangement which permits the Board to be the court of last appeal in regards to applications, and revocations. By means of the Division of Inspection the Board gets excellent knowledge as to the applicant, his character, standing in the community, contemplated place of business, etc. From the Division of Enforcement the Board receives information concerning the amount of kind of trouble which some licensees may have caused the Board. Thus with all the knowledge which the Board has at its command, it would be a mistake not to permit the Board the right to act as the last appeal on applications and revocations. Further should this not be the case, it would mean taking such matters to the courts which would be expensive and long-drawn out proceedings. In the meantime while the courts were deciding the matter, great injustice would be done. In the case of an applicant for a license, he would be denied the right to sell legal liquor. He could either stand the loss entailed in not having a license, or he could sell illegal liquor. The latter would be the refuge of the individual whose morals are only on the border-line. On the other hand if it were a case which was to decide whether or not a license should be revoked, the licensee could continue to sell until the case was concluded when perhaps, justice would be best served by a speedy decision.

As I have tried to indicate, the fact that the Act gave the Board the right to act as a last appeal has proved to be the best method. Not only is the expense of a court trial avoided, but the element of time saved is of equal importance. With the Board acting on these hearings, justice is received by the applicant or licensee at little expense and loss of time. It is to the Board's credit that there has been practically no complaint on this part of its work.

That the Board has showed a profit each year is proof that the financial aspect of its work is satisfactory. Each year it has not only turned over to the State the required amount but has had left certain amounts which have been distributed to the counties, towns and cities of the State. Greater profits could no doubt be made by the Board should it wish to forget that it was only supplying a social necessity. But it is not the wishes of the Board, nor in keeping with the spirit of liquor control in this State, to increase the profits if in doing so will increase consumption.

While it is hard to measure accurately whether the administration of the Act has led to increased drunkenness or not, it is the opinion of the writer that the control system has not caused an appreciable increase in this unfortunate side of the sale of spirits. No matter what method the State would have adopted to control liquor sales there would have been a certain amount of drunkenness attendant with the

selling of liquor. And since ardent spirits are not quite as easy to get as wine and beer today in Virginia, we feel that there is no more drinking under the A.B.C. system than would exist had the State tried the private license method of control.

We are pleased to note that under the A.B.C. system a higher regard for the spirit of the law has been noticed. This has been the results of observations carried on by the various Store managers. The young people of the Commonwealth are more and more patronizing these stores for the purchases of liquor. This means that those who still patronize the bootlegger are the older citizens of the Commonwealth who are indifferent with respect to law. And with the building up of a respect for the law among the younger people of the State, the eventual death of the bootlegger is but a matter of time.

In conclusion then we may say that our study of the administration of the Virginia Alcoholic Beverage Control Act by the Alcoholic Beverage Control Board has shown that the liquor control system of the Commonwealth is being capably administered. We feel that the Board has done a good job, and will continue to do so as long as it keeps in mind the five principles of liquor control which it laid down for itself at the beginning of its career.

The system as now in use is not perfect. This is real-

ized by the present Board. But it is continually trying to improve its operation of the liquor control system. It is not easy to handle a problem of so many different aspects. A start has been made in the right direction. With continued success, the Virginia Alcoholic Beverage Control Board should prove to be one of the State's best administered governmental agencies.

APPENDIX A.

- 1 - Table #1 - Composite Chart of Enforcement Work, for the years 1935-36-37.
- 2 - " 2 - Composite Chart of Inspection Work of A.B.C. Board for the years 1935-36-37.
- 3 - " 3 - Report of the Division of Inspection for 1936-37.
- 4 - " 4 - Composite Chart of Merchandise Division's Work for 1935-36-37.
- 5 - " 5 - Profit and Loss Statement for the Fiscal Year July 1, 1934 to June 30, 1935 - Virginia A.B.C. Board.
- 6 - " 6 - Administrative and Operating Expenses in Monopoly States for 1935.
- 7 - " 7 - Summary Statement of Profit and Loss, 1935 - Commonwealth of Pennsylvania Liquor Control Board.
- 8 - " 8 - Statement of Operations for the Period 1934-35 State of Vermont Liquor Control Board.
- 9 - " 9 - Net Revenue from Alcoholic Beverages in Monopoly States for 1935.
- 10 - " 10 - Revenues, Expenses and Profits of State Liquor Store Systems in 1935.
- 11 - " 11 - Revenue from Licenses and Taxes on Monopoly States.
- 12 - " 12 - Comparative Statement of Assets and Liabilities for 1935-36-37 - The Virginia A.B.C. Board.
- 13 - " 13 - Comparative Profit and Loss Statement for 1934-35-36-37 - The Virginia A.B.C. Board.

Table #1

Composite Chart of Enforcement Work for the years 1935-36-37.¹

Number of Investigations conducted....	4,641	11,291	20,539
Number of Raids conducted.....	3,197	6,733	7,823
Number of Arrests.....	2,373	4,441	3,070
Number of Convictions.....	1,952	3,735	3,382
Number of Dismissals.....	203	700	425
Number of cases pending.....	218		263
Total fines imposed.....	86,135	246,251	149,122
Total jail sentences (in months).....	3,868	13,026	10,251
Total jail sentences to be served (in months).....	2,948	8,845	6,030
Total jail sentences suspended.....	920	4,181	4,221
Quantities of whiskey seized (in gallons).....	44,738	205,525	175,503
Number of stills seized and destroyed.	297	1,675	1,707
Number of automobiles seized while transporting.....	34	178	181
Number of trucks seized while trans- porting.....	6	30	10
Number of cases pending on July 1, '35.		218	
Number of cases pending on June 30, '36		194	
Number of Defendants put under peace bond.....		429	
Amount of peace bonds.....			121,750
Number of pounds of sugar seized at stills.....			67,525
Number of days worked.....			8,112
Number of hours worked.....			85,071
Number of miles traveled.....			407,613
Number of counties worked.....	100	100	100
Number of cities worked.....	24	24	24
Approximate value of seizures			
whiskey.....		411,050	351,006
stills.....		251,250	273,453
automobile.....		36,600	40,452
trucks.....		9,000	2,350
sugar.....			3,375

1. Figures compiled from first three annual reports of the Virginia A.B.C. Board.

Table #2

Composite Chart of Inspection Work for the years 1935-37.²

Number of applications investigated...	6,457	4,449
Number inspection of retail licensees	30,195	17,449
Number inspections of wholesale li- censees	496	380
Number inspections of licensed dis- tilleries and breweries.....	21	4
Number applications hearings attended.	526	432
Number revocation hearings attended...	157	514
Number days worked in State stores....	624	405
Number bottles of wine stamped.....	458,473	1,423,434
Number of court cases attended in which testimony was given.....	1,024	1,538
Number investigations of unlicensed establishments.....	5,127	9,129
Number violations reported against licensees.....	332	3,908

2. Figures compiled from first three annual reports of the Virginia A.B.C. Board.

Table #3

Report of the Division of Inspection for 1936-37.³

Investigations	
(a) Applications	4,994
(b) New managers	1,867
(c) Non-licensed establishments	5,383
Inspections	
(a) Retail licensees	29,711
(b) Wholesalers	413
(c) Distilleries, Breweries, and bottlers	24
Wine and spirits stamped	
(a) Bottles of wine	2,548,684
(b) Bottles of spirits	420
Hearings attended	
(a) Application	1,390
(b) Revocation	878
Observation	
(a) Licensed establishments	9,296
Raids participated in	2,674
Days in court	1,189½
Number hours worked	95,590
Number days worked	10,213½
Number days absent	691½
Number miles traveled	810.857

3. Third annual report of Virginia A.B.C. Board.

Table #4

Composite Chart of Merchandise Division's Work for 1935-36-37.⁴

	1937	1936	1935
chase orders issued.	2,603.	2,803	2,458
es ordered	1,008,700	842,322	757,123
ue of orders	\$11,236,808.07	\$9,280,979.95	\$8,199,200.35
rage cost per case	11.1398	11.0185	10.80
ehouse stock - June 30.	186,061.16	180,329.93	
re stock - June 30	585,264.74	426,771.60	
al stock - June 30	771,557.90	607,001.53	
ehouse stock turnover during			
ear (times)	48.54	34.79	
re stock turnover during			
ear (times)	20.74	22.54	
al stock turnover during			
ear (times)	14.66	13.77	
es transported			
otal on contract	1,007,751	825,853	
o stores	988,716	797,739	
o licensees	16,601	22,377	
ransferred	2,434	5,737	
otal cost	\$ 178,299.40	\$ 148,478.22	\$ 139,704.07
verage cost per case	.1769	.1798	.1792
ases transported by Board's			
truck	15,404	10,185	
akage in warehouse (bottles)	633	462	
akage in stores	1,482	961	13.79Av
akage- distillers' liability	6,048	5,452	65.07Av
invoices to stores	5,767	5,637	
transfers to stores	1,930	1,485	
ties withdrawn by Lab.	1,463	1,443	
vage Dept. sales (pounds)	3,044,400	2,444,200	
Profit	\$ 14,151.73	\$ 6,686.03	\$ 492.29

Figures compiled from first three annual reports of Virginia A.B.C. Board.

Table 5.

Profit and Loss Statement for the fiscal year July 1, 1934 to June 30, 1935.
Furnished by the Virginia Alcoholic Beverage Control Board

Revenue	
Net Sales	12,461,041.99
Licenses issued for manufacture and sale of liquor	130,010.50
Whiskey transportation permits	763.25
Percentage on direct wine and rum shipments	64,442.67
Penalties in lieu of license suspensions	4,387.50
Miscellaneous revenue	4,366.72
Cash and quantity discounts	164,273.80
Profit on operations of Salvage Department	415.98
Total Revenue	12,829,702.41
Costs and Expenses	
Cost of goods sold	8,368,350.44
Retail store expenses	504,674.80
Warehouse expenses	202,988.12
Total direct selling expenses	707,662.92
Retail store overhead and supervisory expenses	61,877.56
General office overhead	204,688.43
Inspection and enforcement expenses	106,399.99
Total administrative and general expenses	372,965.98
Total costs and expense	9,448,979.34
NET PROFITS	3,380,723.07
Amount Earned from March 22, 1934 to June 30, 1934	192,303.79
Profit of Board from the beginning to end fiscal year June 30, 1935	3,573,026.86

Table #6

Administrative and Operating Expenses in Monopoly States showing revenue from all Alcoholic Beverages for the year 1935.⁶

	Population (1930)	Expenses of Administra- tion and Operation	Cost per Capita	Net Profit from State Stores and Net revenue from taxes and license fees	Net Profit taxes and fees per capita
	2,470,939	862,734	.35	2,293,596	.93
	797,423	404,806	.51	1,206,300	1.51
gan	4,842,423	2,098,620	.43	10,211,135	2.11
na	537,606	299,071	1.55	1,638,402	3.05
	465,293	619,455	1.15	886,591	1.91
	6,646,697	3,107,135	.47	19,520,153	2.94
n	953,786	556,779	.58	1,891,611	1.98
	9,631,350	5,154,090	.53	25,204,130	2.62
nt	359,611	105,145	.29	613,349	1.71
nia	2,421,851	1,136,766	.47	4,497,774	1.86
ngton	1,563,396	1,197,299	.77	3,411,798	2.18

cludes local license fees estimated at \$101,638 for 1935.

Table #7

Commonwealth of Pennsylvania Liquor Control Board.
 Statement of Profit and Loss January 1, to December 31, 1935.7

		\$ 55,909,591.11
Cost of Sales		
Costed into Stores	\$ 43,296,617.14	
Federal Tax paid not costed	---0---	
Reserve for Contested Federal Tax	<u>127,569.26</u>	
	43,424,186.40	
Discount on Special Merchandise sales	<u>15,717.70</u>	
of Sales	43,408,468.70	43,408,468.70
Profit from sales		<u>12,501,122.41</u>
Operating Expenses		
Store operating Ex.	2,767,625.72	
Warehouse operating ex.	<u>716,698.58</u>	
Operating Expenses	3,484,324.30	<u>3,484,324.30</u>
Operating Expense		<u>9,016,798.11</u>
Administration Ex.		
Board and Sect's office	51,704.86	
Legal	27,301.67	
Publicity	---0---	
Real Estate and Bldg. Ins.	32,784.32	
Headquarters Expense	21,554.06	
General Administration	93,854.54	
Field Auditing and Ins.	75,593.35	
Accounts and Finance Cont.	287,190.13	
Purchasing	74,181.62	
Adm. and Distribution	32,934.77	
District Offices	82,733.30	
Licensing	92,062.44	
Enforcement	346,174.89	
Examination Expense	13,305.04	
Reserve for Auditing Exp.	42,000.	
Reserve for Fire Loss	60,000.	
Reserve for Inventory Loss	300,000.	
Reserve for Federal License Tax	<u>36,391.68</u>	
Total Administration Expense		<u>1,669,766.67</u>
Operating Profit		<u>7,347,031.44</u>
Other income		
Interest on Bank Deposits	28,880.24	
Miscellaneous Income	39,910.46	
Discount on Purchases	<u>364,381.64</u>	
		<u>428,172.34</u>
Profit From Stores		<u>7,775,203.78</u>
Income from other sources		
Liquor License Applications fees		<u>778,651.21</u>
PROFIT		\$ 8,453,854.94

Table #8

State of Vermont Liquor Control Board
Statement of Operations for the Period June 1, 1934 to June 30, 1935.⁸

Detail	1,370,547.26		
Wholesale	209,669.65	1,580,216.65	
State tax		25,432.30	1,554,784.61
Cost of sales			1,135,092.59
Profit			419,692.02
Operating Expenses			
Salaries and wages	39,502.11		
Rent	11,805.		
Supplies and Misc. Exp.	8,280.66		
Insurance	3,130.89		
Federal taxes	345.92		
Breakage and shortage	818.75		
Depreciation on Fixtures	3,702.30	67,585.63	
House Expenses			
Salaries and Wages	4,535.53		
Supplies and Misc. Exp.	1,438.61		
Insurance	1,058.99		
Federal Taxes	135.43		
Breakage	24.15		
Depreciation	2,358.70	9,551.41	
Administration general Exp.			
Salaries			
Administration	3,728.43		
Board Members	3,851.		
Inspectors and Sect.	4,684.38		
Accounting & Clerical	9,181.19		
Travel			
Administrative	795.43		
Board Members	1,744.37		
Inspectors and Auditors	4,703.75		
Supplies and Misc. Exp.	3,650.43		
Depreciation on Office			
Furniture and Fixtures	1,690.58	34,029.56	
EXPENSES		111,160.60	
OPERATING PROFIT			308,525.42
Income			
From alcohol sales	704.37		
Discounts earned	11,404.85		12,109.22
PROFIT FOR PERIOD			320,634.64

Table #9

Revenue from Alcoholic Beverages in Monopoly States for the year 1935.
(cents omitted) 9

	Total Net Revenue	Net Profit from State Store System	Percent of total	Net Revenue from taxes licenses & fees, in- cluding beer taxes and licenses	Percent of profit
D	634,385	413,322	65.2	221,062	34.8
	2,293,396	1,224,592	53.4	1,069,003	46.6
	1,206,300	733,863	60.8	472,436	39.2
igan	10,216,135	3,630,108	35.6	6,581,027	64.4
ana	1,638,402	1,134,386	69.2	504,015	30.8
	886,591	592,512	66.8	294,079	33.2
	19,520,153	4,646,493	23.8	14,873,660	76.2
on	1,981,611	1,179,511	62.4	712,059	37.6
	25,204,130	7,775,203	30.8	17,428,926	69.2
	425,584	247,167	58.1	178,416	41.9
ont	613,349	300,832	49.	312,516	51.
nia	4,497,774	3,404,815	75.7	1,092,050	24.3
ington	3,411,798	1,848,658	54.2	1,563,39	45.8
a.	1,972,509	1,222,101	62.	750,407	38.
ing	400,539	152,637	38.1	247,902	61.9

Cost collecting excise taxes was not obtainable: the tax-revenue figure represents the gross collection of taxes. It is not likely that the cost of collection would alter the percentages by more than 1%.

Table #10

Revenues, Expenses and Profits of State Liquor Store Systems in 1935.
 Exclusive of Revenue from Excise taxes, Occupational Licenses and
 Miscellaneous fees. (Cents Omitted) ¹⁰

	Receipts from Sales and Other Income	Cost of Goods Amount	% of In- come	Operating Exp. Amount	% of Income	Net Profit Amount	% of Inc.
Al	2,170,871	1,503,012	69.3	253,537	11.7	413,322	19.
	6,271,237	4,194,835	66.9	851,809	13.6	1,224,592	19.5
igan	3,531,110	2,445,641	69.3	351,605	9.9	733,863	20.8
ana	23,000,731	17,272,002	75.1	2,098,620	9.1	3,630,108	15.8
	4,814,940	3,075,798	63.8	604,755	12.6	1,134,386	23.6
	2,875,486	2,031,938	70.7	251,035	8.7	592,512	20.6
	32,673,412	20,908,913	64.	2,806,135	8.6	8,958,363	27.4
on	6,268,534	4,532,203	72.3	556,779	8.9	1,179,551	18.8
2	56,337,563	43,408,468	77.1	5,154,090	9.1	7,773,203	13.8
ont	1,924,036	1,383,177	71.9	294,022	15.3	247,167	12.8
inia	1,422,036	1,066,058	72.4	105,145	7.2	300,832	20.4
ington	13,029,401	8,502,819	65.3	1,121,766	8.6	3,404,815	26.1
irginia ³	11,542,796	8,741,603	75.7	952,534	8.3	1,848,658	16.
ing ⁴	5,050,879	3,290,471	65.2	538,306	10.6	1,222,101	24.2
	1,346,366	1,122,894	83.4	70,823	5.3	152,637	11.3

daho stores in operation from May 1st to Dec. 31st.

tah " " " June 1st " " "

. Va. " " " May 9th " " "

oming - wholesale monopoly in operation April 1st to Dec. 31st.

cludes the sum of \$4,311,869.83 paid to the State Treasurer in the form
 of a mandatory profit, sometimes called a tax.

Table #11

Revenues from Licenses and Taxes on Monopoly States. 1935 (cents omitted).¹¹

	Tax on Spirits	Tax on Wine	Tax on Beer	License and Permit fees covering all al- coholic beverages manufactured and sold in the States
	-----	-----	212,476	17,596
	-----	-----	1,004,211	75,717
	-----	-----	302,317	223,320
gan	-----	151,215	4,093,406	2,336,405
na	-----	-----	241,445	277,270
	-----	-----	342,114	25,452
	4,311,869	539,418	6,250,231	4,073,135
n	-----	95,975	447,817	169,266
	3,384,745	427	6,348,466	7,695,287
	-----	-----	142,961	38,724
nt	170,032 ¹	-----	99,563	42,920
nia	-----	-----	889,750	218,209
ngton	745,588	6,233	696,718	259,363
.	-----	-----	417,160	340,747
ng	201,299	4,172	32,146	10,283

includes tax on goods sold in state stores; wine sales included.
 includes delinquent stamp receipts and miscellaneous receipts.
 includes fees for certain permits to sell beer.
 license fees and charges amounted to \$6,071,730. Most of this was turned
 over to local governments.
 does not include beer and wine off-sale license fees collected by towns.
 includes taxes on wines.
 does not include local fees for sale of beer.

Table #12.

Condensed Comparative Statement of Assets, Liabilities, and Surplus as of the dates indicated.¹² The Virginia A. B. C. Board.

	June 30, 1934	June 30, 1935	June 30, 1936	June 30, 1937
ASSETS				
Cash and petty cash	73,626.26	642,448.70	667,801.64	807,661.97
Grants received	2,722.07	10,696.01	1,954.68	9,302.91
Appropriation available...	250,000.	250,000.00	--0--	
Stores...	624,635.17	449,333.36	607,004.00	771,559.58
Investment assets	950,983.50	1,352,478.07	1,276,760.32	1,588,524.46
Investment-Net...	118,814.15	176,835.98	179,918.83	191,683.12
Unexpended charges				
Department-balances...	27,107.85	42,761.47		
Total Assets	1,096,905.50	1,572,075.52	1,484,407.56	1,820,049.96
LIABILITIES, RESERVES and SURPLUS				
Accounts payable	221,489.13	19,446.06	23,851.72	60,894.79
Accounts payable	23,842.58	2,215.91	131,749.75	154,704.84
Accounts payable	400,000.00	--0--	--0--	
Commonwealth of Virginia	9,000.00	12,531.69	14,143.46	16,902.66
Investment Liabilities	654,331.71	34,193.66	169,744.93	232,502.29
Total Liabilities	--0--	--0--	3,202.45	3,202.45
Total Liabilities	--0--	--0--	172,947.38	235,704.74
Reserve for Working Capital and Depression	--0--	471,511.82	439,738.27	550,046.89
Total	442,573.79	1,066,370.04	871,721.91	1,034,298.33
Total	1,096,905.50	1,572,075.52	1,484,407.56	1,820,049.96

Figures compiled from Auditor's report of Va. Dept. of A.B.C. Board for 1935-36-37.

Table #13

Condensed Comparative Statement of Profit and Loss for the Periods Indicated.¹³
The Virginia A.B.C. Board.¹³

Particulars	As of June 30-'34	As of June 30-'35	As of June 30-'36	As of June 30-'37
Sales.....	670,924.68	12,461,041.99	13,262,641.99	16,439,226.79
Wines issued for manu- facture and sale of wineries.....	63,285.00	130,010.50	66,265.00	169,105.50
Wines issued for manu- facture and sale of 3.2 percentages.....			217.50	2,007.50
Freight transportation costs.....	2,381.50	763.25	1,205.75	1,375.50
Percentage on direct wine shipment.....	16,559.16	64,442.67	64,314.43	104,729.87
Commissions in lieu of license suspensions...		4,387.50	4,385.00	6,800.11
Other miscellaneous revenue...	841.40	4,366.80	4,765.93	7,762.91
Quantity discounts on operations of the Department....	23,179.13	164,273.80	160,090.08	195,019.73
Merchandise price adjustment.....		415.98	6,686.03	14,151.92
Depreciation.....				1,345.03
Total revenue....	777,170.87	12,829,702.41	13,570,571.71	16,941,524.86
Costs and Expenses				
Cost of goods sold.....	476,278.94	8,368,350.44	8,821,386.73	10,885,188.40
Warehouse expenses...	25,977.68	504,674.80	540,422.02	677,771.59
House expenses.....	15,766.94	202,988.12	221,135.42	266,647.66
Total direct selling expenses....	41,744.62	707,662.92	761,578.42	944,419.20
Warehouse overhead supervisory exp.	10,757.37	61,877.56	34,106.26	32,740.37
General office overhead	41,240.69	204,688.43	255,450.29	239,344.82
Protection and enforce- ment expenses.....	14,845.46	106,399.99	136,497.20	196,513.50
Uninsured garage expenses			2,220.75	4,113.61
Payments for accounts equipment.....			1,577.25	820.60
Total adminis- trative and general expenses.....	66,843.52	372,965.98	399,851.75	473,532.90
Total costs and expenses.....	584,867.08	9,448,979.34	9,982,816.90	12,303,140.50
NET PROFIT	192,303.79	3,380,723.07	3,587,754.81	4,638,384.36

bid.

APPENDIX B.

Excerpts from the Acts of the Legislation of 1934, chapter 94,
as amended by Acts of the Legislature of 1936.

Powers and Functions of the Board.

The Board shall have the right to:

- *(a) To buy, import and sell alcoholic beverages other than beer, and to have alcoholic beverages in its possession for sale.
- (b) To control the possession, sale, transportation and delivery of alcoholic beverages by the Board; (this is simplified by administrative order #817 to wit: That Whereas, the Virginia Alcoholic Beverage Control Board was created for the purpose of administering the Alcoholic Beverage Control Act; and Whereas, The said act is applicable to the manufacture, sale, transportation and possession of alcoholic beverages within the State of Virginia; and, Whereas, It is believed that the establishment of State stores and the sale of alcoholic beverages by the Virginia Alcoholic Beverage Control Board was intended only to serve persons while within the borders of the State of Virginia; NOW, THEREFORE, IT IS ORDERED That the Virginia Alcoholic Beverage Control Board will accept only such orders for the sale and delivery of alcoholic beverages by the Board as may be consummated wholly within the State of Virginia.)
- (c) To determine the localities within which government stores shall be established and operated and the location of such stores;
- (d) To make provision for the maintenance of warehouses for alcoholic beverages and to control the delivery of alcoholic beverages to and from such warehouses, and the keeping of the same therein;
- (e) To lease, occupy and improve any land or building required for the purposes of this act;
- (f) With the consent of the Governor, to purchase or otherwise acquire title to any land or building required for the purposes of this act and to sell and convey the same by proper deed;

- (g) To purchase, lease or acquire the use by any manner whatsoever of any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this act, including rectifying, blending and processing plants; the Board is hereby empowered to purchase, build, lease and operate distilleries and to manufacture alcoholic beverages if in its opinion the purposes of this act can be thereby promoted;
- (h) To determine the nature, form and capacity of all packages to be used for containing alcoholic beverages to be kept or sold under this act, and to prescribe the form and contents of all labels and seals to be placed thereof; (this was enlarged by administrative order #41 which reads as follows: "Packages or containers in which wines shall be sold, and/or delivered, to retail on-and off-premises wine licensees of the Board, shall not have a capacity in excess of one gallon liquid contents, and no person shall import, ship, transport or bring, into Virginia, any wine in any package, or container, of a capacity in excess of one gallon, except for shipment outside of the State when otherwise legal and conformably to the applicable regulations of the Board so to do, and/or except for the purpose of bottling of such bulk wine in pursuance of express permit of the Board to any wholesale wine distributor licensed by the Board to bottle wine, and conformably to all applicable regulations of the Board for the conduct of the business of bottling wine by any such licensee, provided that the Board may, in its discretion, at any time, by general regulation and/or by special permit in any particular case, alter, repeal or amend these regulations, and provided further that these regulations need not be uniform in their application;
- (i) To appoint every officer, agent and other employee required for its operations, dismiss them, fix their salaries or remuneration, assign them their official positions and titles, define their respective duties and powers, require them or any of them to give bonds payable to the Commonwealth, in such penalty as shall be fixed by the Board, and engage the services of experts and of persons engaged in the practice of a profession; all salaries or remuneration in the excess of one thousand dollars per annum shall first be approved by the Governor; members of the Board are hereby vested,

such officers, agents and employees of the Board as shall be designated by the Board shall, being so designated, be vested, with like power and authority to enforce the provisions of this act and the criminal laws of the State as are now vested in sheriffs of counties and police of cities and towns;

- (j) To hold and conduct hearings, to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any officer or agent thereof, and to administer oaths and to take testimony thereunder; on its discretion to authorize any member, officer or agent of the Board to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder;
- (k) To make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (first) officials, including court and police officials of the State and its subdivisions, if the information requested is for official use, and (second) persons who have a personal or legal interest in obtaining the information requested, if such information is not to be used for commercial or trade purposes.
- (l) Until such time as the Board may have issued licenses under the provisions of this act for the sale of alcoholic beverages, and established government stores conveniently located to supply licensees, the chairman of the Board may issue permits for the purchase and the transportation of alcoholic beverages to such persons and for such purposes as before the effective date of this act may have been issued by the Attorney-General, under the provisions of chapter four hundred and seven of the Acts of the General Assembly of nineteen hundred and twenty-four, and the chairman of the Board may, but is not required, to permit the sale by persons authorized to make sale of such alcoholic beverages under the provisions of and as provided in the aforesaid act, and of such alcoholic beverages as shall have been acquired prior to the effective date of this act, including such alcoholic beverages as are on transit.
- (m) Generally to do all such things as may be deemed necessary or advisable by the Board for the purpose of carrying into effect the provisions of the act."

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